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DE SOTO EXPEDITION TRAIL COMMISSION; SALE OF CERTAIN FEDERAL LANDS, CLARK COUNTY, NV; AND ESTABLISHING THE BLACKSTONE RIVER VALLEY HERITAGE CORRIDOR COMMISSION

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 555

TO ESTABLISH IN THE DEPARTMENT OF THE INTERIOR THE DE SOTO EXPEDITION TRAIL COMMISSION, AND FOR OTHER PURPOSES

S. 624

TO PROVIDE FOR THE SALE OF CERTAIN FEDERAL LANDS TO CLARK COUNTY, NV, FOR NATIONAL DEFENSE AND OTHER PURPOSES

S. 830

TO AMEND PUBLIC LAW 99-647, ESTABLISHING THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION, TO AUTHORIZE THE COMMISSION TO TAKE IMMEDIATE ACTION IN FURTHERANCE OF ITS PURPOSES AND TO INCREASE THE AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION

JUNE 8, 1989

Printed for the use of the
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S311-75

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DE SOTO EXPEDITION TRAIL COMMISSION; SALE OF CERTAIN FEDERAL LANDS, CLARK COUNTY, NV; AND ESTABLISHING THE BLACKSTONE RIVER VALLEY HERITAGE CORRIDOR COMMISSION

THURSDAY, JUNE 8, 1989

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:36 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Dale Bumpers, presiding.

Senator BURNS. Good morning. Senator Bumpers is on his way.

We have three measures this morning on which some folks will be testifying. We have four distinguished guests here this morning as well. I know they are very busy gentlemen and want to get on with their business of the day, so we will proceed.

Our chairman is here now, and I will be pleased to relinquish the gavel and let the honorable Senator from Arkansas take over.

Senator BUMPERS. Thank you, Senator Burns.

OPENING STATEMENT OF HON. DALE BUMPERS, U.S. SENATOR FROM ARKANSAS

Senator BUMPERS. The purpose of the hearing today is to receive testimony on three measures currently pending before the Subcommittee on Public Lands, National Parks and Forests. The measures are: S. 555, a bill to establish in the Department of the Interior the De Soto Expedition Trail Commission; S. 624, a bill to provide for the sale of certain Federal lands to Clark County, Nevada for national defense purposes; and S. 830, a bill to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the commission.

I will place copies of these measures in the hearing record.

The record will remain open for one week to receive additional testimony and comments.

Before we hear from our first witness, I want to make a few very brief comments about two of the measures on today's agenda.

With regard to S. 555, the De Soto Trail Commission, I am especially pleased that Dr. Robert McGimsey has joined us today to testify in support of this legislation. Bob is the Director of the Arkansas Archeological Survey and has appeared before the subcommittee several times over the years in support of a number of archaeological and historic preservation projects.

There is tremendous support for this legislation in Arkansas. The De Soto expedition spent considerable time in my state and, with the death of De Soto on May 12, 1542, ended along the western bank of the Mississippi River. I am pleased to report that plans are underway to establish a new State park in Parkin, AR, the probable location of Casqui, an Indian Village visited by the expedition in 1541.

I am also glad we are considering S. 624, the so-called Apex land conveyance legislation. The primary purpose of this legislation is to make certain Federal lands in the vicinity of Las Vegas available for the production of ammonium perchlorate, commonly called AP. This highly volatile but extremely important chemical is of vital significance to the Nation's space and defense programs. It is used as a propellant in the space shuttle's booster rockets and is a key component of numerous rocket and missile programs in our defense arsenal.

Specifically, the continued production of one of the Army's premier weapons systems, the multiple launch rocket system [MLRS] is keenly dependent upon adequate supplies of AP. The MLRS has been broadly supported in the Senate because of the key role it plays in the U.S. conventional force posture.

Finally, I want to make one comment about today's witness list. We have a total of only seven public witnesses testifying on three bills. That's the good news. The bad news is that five of my colleagues are scheduled to testify first. [Laughter.]

While I am always pleased to hear from the sponsors of the bills pending before the subcommittee, I urge you all to please summarize your statements if possible so that we will have more time to hear from your constituents who have in some instances traveled significant distances to be here today.

[The texts of S. 555, S. 624, and S. 830 follow:]

II

101ST CONGRESS
1ST SESSION

S. 555

To establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9 (legislative day, JANUARY 3), 1989

Mr. GRAHAM (for himself, Mr. GORE, Mr. NUNN, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "De Soto Trail Commission Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the expedition of Hernando De Soto was the first major European exploration of the interior of the southeastern United States and that the chronicles of

the expedition provide a rare description of indigenous Indian societies;

(2) knowledge gained as a result of the expedition contributed significantly to the subsequent exploration and colonization of the region;

(3) discovery of the first winter encampment in Tallahassee, Florida, is the most recent archaeological evidence of the De Soto expedition in the United States;

(4) the State of Florida has completed the marking of a commemorative De Soto trail and the State of Alabama has identified a commemorative trail to be marked by 1990;

(5) the De Soto Trail Commission of the Southeast Region has identified a recommended "Highway Route of the De Soto Expedition"; and

(6) official commemoration of the De Soto expedition will increase public awareness of early European exploration of the southeastern United States, encourage further archaeological and historical research, and ultimately increase our knowledge of the early historic period of the southeastern United States.

(b) PURPOSE.—In furtherance of the findings set forth in subsection (a) of this section, it is the purpose of this Act to establish, through a Commission composed of individuals rep-

resenting scholarly research and all concerned levels of government—

(1) a commemorative highway route of the De Soto expedition;

(2) a comprehensive plan for the administration of such a highway route including associated public interpretive facilities; and

(3) an archaeological and historical research institute for studies related to the De Soto expedition.

TITLE I—DE SOTO EXPEDITION TRAIL COMMISSION

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—To carry out the purposes of this title and assist with the establishment of a commemorative highway route of the De Soto expedition, there is hereby established in the Department of the Interior the De Soto Expedition Trail Commission (hereafter in this Act referred to as the "Commission"). The Commission shall exercise its responsibilities and authorities as provided in this Act with respect to that region in southeastern United States comprising the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas (hereafter in this Act referred to as the "involved States"). The Commission shall consist of 19 mem-

bers, appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") as follows:

(1) 10 members appointed from recommendations submitted by the Governors of the involved States of which one shall represent each State;

(2) 4 members appointed from recommendations submitted by the De Soto Trail Commission of the Southeast Region;

(3) 2 members appointed from recommendations submitted by State Historic Preservation officers of one or more involved States both of whom shall represent local or county historical commissions;

(4) 2 members appointed by the Secretary, of which one shall hold the position of Superintendent, De Soto National Memorial and the other shall have knowledge and experience in the Spanish colonization of southeastern United States; and

(5) 1 member appointed by the Secretary from recommendations submitted by the Smithsonian Institution.

(b) APPOINTMENT.—All members of the Commission shall be appointed for terms of 2 years, except that the terms of the 10 members appointed from recommendations submitted by the Governors of the involved States pursuant to subsection (a)(1) shall be for a term of 4 years.

(c) CHAIRPERSON.—The Commission shall elect a chairperson from among its members. The term of the chairperson shall be 2 years.

(d) TERMS.—Any member of the Commission appointed for a definite term may serve after the expiration of such term until a successor is appointed. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which its predecessor was appointed.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least biannually or at the call of the chairperson or a majority of its members.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

SEC. 102. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) through the De Soto Expedition Archeological and Historical Institute make loans and grants, from

funds appropriated for that purpose or from funds donated or otherwise made available to the Commission, to conduct archeological research and field investigations and historical research, and publish materials regarding the De Soto expedition for purposes including location of the expedition route, recovery and preservation of archeological or historical materials, and advancement of knowledge regarding Hernando de Soto, the expedition through southeastern United States and the native cultures inhabiting the region during the early historical period;

(2) coordinate activities of Federal, State, and local governments and private businesses and organizations in order to further the commemoration of the De Soto expedition;

(3) develop guidelines and standards consistent with standards established by the National Park Service for the commemoration of the De Soto expedition, including interpretive methods;

(4) within 2 years submit to the Secretary, recommendations pertaining to the identification and designation of a highway route of the De Soto expedition, interpretive facilities to appropriately commemorate Spanish exploration, and a detailed plan to administer such route and facilities; and

(5) provide advice and assistance in preparation of loan or grant applications to the Commission and applications for loans or grants from other Federal or non-Federal sources in furtherance of the purposes of this title.

Any loan made under this subsection shall be for a term expiring before the date 4 years after the enactment of this Act and shall be subject to such other terms and conditions, including interest, as may be established by the Commission with the approval of the Secretary.

(b) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary describing activities of the De Soto Expedition Archeological and Historical Institute, progress with respect to designation of a commemorative highway route and establishment of interpretive facilities and setting forth expenses and income and the entities to which any loans and grants were made during the year for which the report is made. The Secretary shall submit an annual report to Congress describing the Commission's activities. Such report shall specify research activities, progress with respect to commemorative route designation, and a summary of loans, grants, and technical assistance provided under the Act including the amount, recipient, and purpose of any loan, grants, and technical assistance so provided. The report shall also include an analysis of the adequacy of actions taken

during the previous year to commemorate the De Soto expedition, conduct archeological and historical research, and publish information regarding the expedition and native Indian cultures encountered; as well as the anticipated funds and personnel to be made available by the Secretary during the next fiscal year to implement provisions of the Act.

(c) COST ESTIMATES.—Prior to making any grant or loan the Commission shall require detailed cost estimates to be prepared for the project to be funded. Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the appropriate committees of the Congress detailed cost estimates for all projects planned.

(d) EXPIRATION.—The Commission established pursuant to this title shall cease to exist 4 years from the date of enactment of this Act. Any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the United States, to a State or local government agency, to a private nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

SEC. 103. STAFF OF THE COMMISSION.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from one or more of the involved States (and any political subdivision thereof) and may reimburse the State(s) or political subdivision(s) for those services.

SEC. 104. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) ARCHEOLOGICAL AND HISTORICAL RESEARCH COMMITTEE.—The Commission shall establish an archeological and historical research committee to provide technical oversight and day-to-day administration of the De Soto Expedition Archeological and Historical Institute.

(e) TECHNICAL ADVISORY GROUPS.—The Commission may establish and appoint one or more technical advisory groups to provide technical advice in financing, interpretive facilities, tourism, publications, and intergovernmental coordination.

(f) DONATIONS.—Notwithstanding any other provisions of law, the Commission may seek and accept donations of funds or services from individuals, foundations, corporations,

and other private entities, and from public entities, for the purpose of carrying out its duties.

(g) FUNDS FROM OTHER SOURCES.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(h) OBTAINING PROPERTY.—The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services, as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $1,000,000 to the Commission to carry out the purposes of this title.

TITLE II—HIGHWAY ROUTE OF THE DE SOTO EXPEDITION

SEC. 201. DESIGNATION OF THE ROUTE.

(a) DESIGNATION.—In order to provide for public appreciation, education, understanding, and enjoyment of the De Soto expedition and native Indian cultures encountered, the Secretary of the Interior, with the concurrence of the agency having jurisdiction over applicable public roads, shall designate by publication of a description thereof in the Federal Register, a vehicular route along existing public roads par-

alleling as closely as practicable the route of the De Soto expedition. Such route shall be known as the Highway Route of the De Soto Expedition (hereafter in this title referred to as the "route"), and shall be designated with appropriate markers to guide members of the public. The Secretary may provide funds necessary to States or local entities having jurisdiction over such roads so designated to erect thereon signs and other informational devices displaying the marker of the Highway Route of the De Soto Expedition.

(b) INITIAL ROUTE.—The route as initially designated shall include that portion as designated by the State of Florida described as Florida Highway 64 from De Soto National Memorial to Bradenton, thence U.S. Highway 301 to Bushnell, thence U.S. Highway 48 to Floral City, thence U.S. Highway 41 to Williston, thence Florida Highway 121 to Gainesville, thence Highway 90 to Florida/Georgia State line and that portion proposed to be designated by the State of Alabama described as U.S. Highway 278 from the Georgia/Alabama State line to Piedmont, thence Alabama Highway 21 to Winterboro, thence Alabama Highway 76 to Childersburg, thence U.S. Highway 231 to Montgomery, thence U.S. Highway 80 to Uniontown, thence Alabama Highway 61 to Greensboro, thence Alabama Highway 69 to Tuscaloosa, thence U.S. Highway 82 to the Alabama/Mississippi State line.

(c) ADDITIONAL SEGMENTS.—The Secretary may, in the manner set forth in section 201 of this title, designate additional segments of the route from time to time upon the recommendation of the De Soto Expedition Trail Commission as provided by section 102(a)(4).

SEC. 202. TECHNICAL ASSISTANCE.

With respect to segments of the route, the Secretary may, pursuant to cooperative agreements with the De Soto Expedition Trail Commission, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the archeological, historical, and cultural values along the route.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $500,000 to the Secretary to carry out the purposes of this title. No funds made available under this title shall be used for the operation, maintenance, or repair, of any road or related structure.

II

101ST CONGRESS
1ST SESSION

S. 624

To provide for the sale of certain Federal lands to Clark County, Nevada, for national defense and other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, JANUARY 3), 1989

Mr. REID (for himself and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To provide for the sale of certain Federal lands to Clark County, Nevada, for national defense and other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. CONGRESSIONAL FINDINGS.

Congress finds that:

(a) Clark County, Nevada ("Clark County") has long served the Nation's defense program by hosting Nellis Air Force Base, Indian Springs Air Force Base, the operational headquarters for the Nevada Atomic Test Site, and the Basic Management Industrial Com-

plex near Henderson which was established during World War II.

(b) The only two domestic producers of ammonium perchlorate, a principal component of solid rocket fuel essential to the Nation's defense and space programs, are Pacific Engineering and Production Company, Incorporated ("Pepcon") and Kerr-McGee Chemical Corporation ("Kerr-McGee"), which have long maintained their production facilities near the city of Henderson in Clark County. On May 4, 1988, an explosion destroyed the Pepcon plant, thereby substantially reducing the Nation's capacity to produce solid rocket fuel.

(c) A commission subsequently appointed by the Governor of Nevada to examine the adequacy of existing policies and regulations pertaining to the manufacture and storage of certain industrial materials has recommended new policies which imply the desirability of relocating a part of Kerr-McGee's plant and other industries to a less densely populated part of Clark County, but within reasonable distance of the present work force.

(d) The Department of Defense and the National Aeronautics and Space Administration strongly desire to replace the domestic ammonium perchlorate produc-

tion capacity lost in the Pepcon accident and to firm up existing production capabilities in order to meet current shortages and long-term requirements.

(e) Kerr-McGee may be unable to maintain its existing operations for the production, storage, and blending of ammonium perchlorate because of population densities and constraints on land availability.

(f) Approximately 84 per centum of the State of Nevada and over 90 per centum of Clark County is owned by the United States; this severely limits the availability of State or privately owned land for the Kerr-McGee plant.

(g) The optimum site for the relocation of the Kerr-McGee plant operations described above, consistent with the State's and Kerr-McGee's desires, is some three thousand eight hundred and forty acres of land ("Kerr-McGee Site"), which is part of an area of Federal lands, known as the "Apex Site", administered by the Bureau of Land Management ("BLM"). Clark County has advised the BLM it would like to purchase the Apex Site for an industrial park under section 203 of the Federal Land Policy and Management Act ("FLPMA") (90 Stat. 2750), which contains acreage limitations on the amount of land that may be trans-

ferred under its provisions without further congressional approval.

(h) Clark County and Kerr-McGee have identified the location of potential utility and transportation rights-of-way needed to support the Kerr-McGee plant.

(i) The rapid growth of Clark County and the restraining impact of Federal land ownership make it appropriate to accommodate Clark County's request for a reasonable block of Federal lands, together with supporting transportation and utility rights-of-way, for use as a heavy industrial park removed from the high population densities in the county.

(j) Clark County and Kerr-McGee have prepared an environmental assessment on the proposed transfer of the Kerr-McGee Site and supporting utility and transportation rights-of-way, entitled "Apex Nevada Land Transfer Proposal and Proposed Kerr-McGee Ammonium Perchlorate Facility", dated March 1989. That document reflects review of and comments on the proposed land transfer by the BLM and interested State agencies and environmental organizations in Nevada. It does not identify any substantial environmental impacts likely to result from the transfer of the site and supporting rights-of-way to the county that cannot be avoided or satisfactorily mitigated with ap-

propriate control measures. Clark County and Kerr-McGee have agreed with BLM to provide those measures necessary to prevent or mitigate adverse environmental impacts identified in the environmental assessment.

(k) The Federal lands comprising the Apex Site are presently classified for retention and multiple use by the applicable BLM land use plan. At the time the current land use plan was developed, disposal of large parcels of land immediately outside the Las Vegas Valley was not identified as a possibility. However, the transfer of the Kerr-McGee Site and rights-of-way to Clark County will serve a critical national need which cannot be achieved prudently or feasibly on non-Federal land in Clark County and which outweighs other existing and potential public uses of the lands which would be served by maintaining them in Federal ownership.

(l) It is essential to accomplish the transfer of the Kerr-McGee Site and the supporting utility and transportation rights-of-way to Clark County as expeditiously as possible. The rest of the county's proposal should proceed in accordance with the provisions of the Federal Land Policy and Management Act and implementing regulations, except as modified by section 103 of

this Act. The Secretary should expedite such processing to the maximum extent possible.

(m) The BLM, recognizing that the desert tortoise habitat found in Nevada, and elsewhere, is being significantly affected, especially within the Mojave Desert, by the rapid development associated with industrial growth and by other human activities, has prepared a rangewide plan for desert tortoise habitat management on the public lands. The goal of this plan is to ensure that viable desert tortoise populations will continue to exist through cooperative resource management aimed at protecting the species and its habitat. The BLM's schedule to implement this plan should be accelerated.

SEC. 102. APEX PROJECT LAND TRANSFER.

(a) Subject to all valid existing rights, the Secretary of the Interior ("Secretary") is directed to convey by a standard form general warranty deed the lands, comprising approximately three thousand eight hundred and forty acres, depicted as the "Kerr-McGee Site" on a map entitled "Apex Heavy Industrial Use Zone" dated March 1989, on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, to Clark County, solely for sale to Kerr-McGee, in return for payment of the lands' appraised

fair market value, as determined by the Secretary in accordance with established appraisal practices.

(b) Subject to all valid existing rights, the Secretary is directed to grant the following described utility and transportation rights-of-way to Clark County for subsequent grant by Clark County of easement rights to Kerr-McGee or others designated by Kerr-McGee for the Kerr-McGee Site:

(1) a road and telephone line from State Highway 93,

(2) a railroad and utility corridor from the Union Pacific Railroad tracks near Highway I–15,

(3) electric transmission lines, and

(4) a water distribution line from the proposed facilities of Las Vegas Valley Water District, all as generally described and located on the map designated figure 3.6–1 in the environmental assessment referred to in subsection 101(j) of this Act.

Each right-of-way shall not exceed two hundred feet in width and shall be subject to the standard rental payments and other conditions provided for in the Secretary's regulations implementing title V of FLPMA (43 U.S.C. 1761–71).

(c) Subject to sections (a) and (b) above, the Secretary shall offer to sell the lands described in subsection (a) of this section at the lands' appraised fair market value and shall offer to grant the rights-of-way described in subsection (b) of

this section to Clark County within thirty days of the effective date of this Act, but the Secretary's duty to transfer such lands and rights-of-way shall not lapse if they are not offered to the county within the prescribed time. If Clark County fails to purchase such lands within sixty days of receiving the Secretary's offer, the lands shall become subject to the authorization provided for in section 103 of this Act, and the total acreage authorized for disposition shall be increased by the amount of such acreage.

SEC. 103. AUTHORIZATION FOR ADDITIONAL TRANSFERS UNDER SECTION 203 AND TITLE V OF THE FEDERAL LAND POLICY AND MANAGEMENT ACT.

(a) Notwithstanding the existing BLM land use plan for the Apex Site and the acreage limitations and competitive bidding requirements of section 203 of FLPMA, the Secretary is authorized, subject to the other conditions of that section, to transfer to Clark County up to seventeen thousand acres of the lands within the "Apex Site", depicted on the map referred to in section 102(a), that lie outside the boundaries of the Kerr-McGee Site at the property's appraised fair market value as determined by the Secretary in accordance with established appraisal procedures.

(b) The Secretary is authorized to enter into a land sales agreement with Clark County which provides for the transfer to be made in amounts and at times requested by Clark

County over a period not to exceed ten years. The purchase price for each parcel shall reflect its appraised fair market value at the time of the agreement, adjusted for inflation up to the date of transfer as measured by the annual Consumer Price Index published by the Department of Labor.

(c) Consistent with title V of FLPMA, the Secretary may grant Clark County such rights-of-way as may be reasonably necessary to support the development of an industrial park on the lands that may be transferred pursuant to this section.

(d) Nothing in this section shall relieve the Secretary from compliance with all laws applicable to the proposed transfer, including, but not limited to, the National Environmental Policy Act: *Provided,* That any environmental studies prepared shall be on the total acreage proposed for purchase by Clark County even though portions may be transferred over a period of years as authorized in subsection (b) of this section.

(e) Subject to valid existing rights, the lands authorized for transfer under this section are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. This withdrawal shall continue in effect until the land transfers are completed pursuant to this section.

SEC. 104. RESERVATION OF RIGHT-OF-WAY CORRIDORS.

The transfer of lands pursuant to sections 102(a) and 103 of this Act shall be subject to the reservation to the United States of the right-of-way corridors depicted on a map entitled "Right-of-Way Corridors Across the Apex Heavy Industrial Use Zone" dated March 1989, on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. These corridors shall be administered by the Secretary who may grant rights-of-way over, upon, under and through the corridors consistent with title V of FLPMA. The Secretary, in the administration of such corridors, shall to the maximum extent feasible locate rights-of-way so as to impact to the least extent possible, the heavy industrial uses being carried out on the site.

SEC. 105. ENVIRONMENTALLY SENSITIVE LAND ACQUISITION FUND.

(a) Funds received from the sale of lands under this Act shall be used by the Secretary to acquire environmentally sensitive lands, or interests in such lands, in the State of Nevada which can be managed as part of an existing Federal land management unit. Funds shall be deposited into an account within the Treasury of the United States for the purpose of carrying out land exchanges or purchasing environmentally sensitive lands in the State to mitigate for the loss of public lands at the Apex Site. In determining the lands to

be acquired, the Secretary shall consult with appropriate State and local officials and interested environmental organizations.

(b) Until appropriated, the funds deposited in the Treasury pursuant to this section may not be obligated.

SEC. 106. LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall file legal descriptions of the lands to be transferred pursuant to this Act with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The legal descriptions shall be on file and available for public inspection in the offices of the Director of the BLM.

SEC. 107. SHORT TITLE OF ACT.

This Act may be cited as the "Apex Project, Nevada Land Transfer and Authorization Act of 1989".

II

101ST CONGRESS
1ST SESSION

S. 830

To amend Public Law 99–647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.

IN THE SENATE OF THE UNITED STATES

APRIL 18 (legislative day, JANUARY 3), 1989

Mr. PELL (for himself, Mr. CHAFEE, Mr. KENNEDY, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend Public Law 99–647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTION PRIOR TO PLAN APPROVAL.

Section 6(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647, 16 U.S.C. 461 note) (referred to in this

Act as the "Act") is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraph (1), the Commission may make the following grants prior to plan approval—

"(A) historic structure preservation and restoration matching grants, determined in accordance with the Commission's cultural resources inventory and upon consultation with the Massachusetts and Rhode Island State Historic Preservation Officers regarding emergency preservation need and project viability;

"(B) interpretation exhibit grants for interpretive exhibit design and development to encourage the development of Blackstone Valley interpretation for the public;

"(C) cultural and educational program grants; and

"(D) matching grants to assist private and public agencies in acquiring and protecting threatened properties containing exemplary natural and cultural resources.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act is amended by striking all of the text and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. (a) GENERAL OPERATIONS.—There are authorized to be appropriated to the Commission, for general operations, $250,000 for each of fiscal years 1988 and 1989

and $350,000 for each of fiscal years 1990, 1991, and 1992, except that the Federal contribution to the Commission for general operations shall not exceed 50 percent of the annual operating costs of the Commission.

"(b) GRANTS—There are authorized to be appropriated to the Commission, for grants authorized by section 6(c)(3), $700,000 for fiscal year 1990, $1,000,000 for fiscal year 1991, and $1,000,000 for fiscal year 1992, to remain available until expended.".

Senator BUMPERS. Senator Burns, have you an opening statement?

Senator BURNS. No, I do not, Senator. I think we should proceed with the witnesses.

Senator BUMPERS. Our first witnesses today will be Senators Pell and Chafee. And, Senator Pell, since your name is first on my list, please proceed.

STATEMENT OF HON. CLAIBORNE PELL, U.S. SENATOR FROM RHODE ISLAND

Senator PELL. Thank you very much. I have a mercifully brief statement here. And thank you for this opportunity to present the case for increased Federal support of the Blackstone River Valley National Heritage Corridor. I would emphasize that any increased Federal funds will be matched by far greater support at the state and local levels.

And this is truly a bipartisan effort. I am very glad that my colleagues, Senators Chafee, Kennedy, and Kerry, joined with me in introducing our legislation to continue the good work already underway.

Our legislation would increase the annual operating authorization of the commission to $350,000 and also would establish seed money matching grants: $700,00 for fiscal year 1990, $1 million for 1991, and another million for 1992.

These operating funds will allow the commission to bring additional experts into the planning process, and the matching grants funds will help preserve historic structures, develop visitor centers, protect threatened properties and encourage additional public participation in the parks.

We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the hard-working Blackstone River, which flows 46 miles from Worcester, MA to Pawtucket, RI.

The national historic value of this area and its role as a cradle of our industrial revolution was recognized by the Congress with the enactment of the Blackstone Valley National Heritage Corridor Act.

Later in this hearing Mr. Bob Bendick, Director of the Rhode Island Department of Environmental Management and Vice Chairman of the corridor commission, will tell you of the exciting progress that has been made, of the enthusiasm that is building and the need to sustain that momentum.

Bob Bendick has been a driving force in Rhode Island toward preserving our natural, recreational, and historic legacy. As I am sure you will learn from his testimony, he knows not just the cost but the value of preserving these parts of our heritage.

He will be joined by Massachusetts Representative Dick Moore, chairman of the commission, who has been leading the commission's efforts. Representative Moore will share his vision of what is needed and why we need to complete this corridor.

I thank you for this opportunity, and I have a full statement that I hope may be included in the body of the record.

Senator BUMPERS. The full statement will be admitted to the record. Thank you, Senator Pell.

[The prepared statement of Senator Pell follows:]

INTRODUCTORY STATEMENT BY SENATOR CLAIBORNE PELL

THE BLACKSTONE VALLEY NATIONAL HERITAGE CORRIDOR ACT

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

JUNE 8, 1989 AT 9:30 A.M. IN SD-366 DIRKSEN

Mr. Chairman, thank you for this opportunity to present the case for increased federal support of the Blackstone River Valley National Heritage Corridor. I must emphasize, at the start, that any increased federal funds will be matched by far greater support at the state and local levels.

This is truly a bipartisan effort and I am delighted that my colleagues, the junior Senator from Rhode Island (Mr. Chafee), the senior Senator from Massachusetts (Mr. Kennedy) and the junior Senator from Massachusetts (Mr. Kerry) are original cosponsors of our legislation to continue the good work that already is underway.

We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the hardworking Blackstone River, which flows about 46 miles from Worcester, Massachusetts, to Pawtucket, Rhode Island.

The national historic value of this area and it's role as cradle of our industrial revolution was recognized by the Congress with the enactment of the Blackstone Valley National Heritage Corridor Act (Public Law 99-646) in 1986.

--more--

Mr. Chairman, you and the members of this Subcommittee on Public Lands, National Parks and Forests, made this national recognition possible. We thank you for that help and, I am pleased to report that the result has been an excellent and vibrant project.

The Corridor Commission recently briefed us on its plans and progress toward preserving, protecting and telling the national story of the Blackstone Valley. Their final report should be completed by the end of next month, and we should encourage them to keep their exciting momentum going.

That encouragement, however, requires increased federal funding to help the Commission build upon its success. To that end, I introduced our legislation to increase the annual authorization both for operations and for a program to provide "seed money" grants for FY 1990, FY 1991 and FY 1992.

Our legislation would increase the annual operating authorization of the Commission to $350,000 and would authorize funding for matching grants: $700,000 for FY 1990, $1,000,000 for FY 1991 and $1,000,000 for FY 1992.

These operating funds will allow the Commission to bring additional experts in to the planning process and the matching grants funds will help preserve historic structures, develop visitor centers, protect threatened properties, and encourage additional public participation in the parks.

--more-

Later in this hearing Mr. Bob Bendick, director of the Rhode Island Department of Environmental Management and Vice Chairman of the Corridor Commission, will tell you of the exciting progress that has been made, of the enthusiasm that is building and of the need to sustain that momentum.

Bob Bendick has been a driving force in Rhode Island toward preserving our natural, recreational and historic legacy. As I am sure you will learn from his testimony, he knows not just the cost but the value of preserving these important parts of our heritage.

He will be joined by Massachusetts Representative Dick Moore, Chairman of the Corridor Commission, who has been leading the Commission's efforts. Representative Moore, as you will learn from his testimony, has a clear vision of what is needed and why we need it to complete the Corridor.

When I testified in 1986 in support of the original authorization, which was sponsored by my colleague, Senator Chafee, I noted that the Blackstone River is our link not only to the past, but to the future."

That, I think, is the most important point we can make about the Blackstone River Valley Heritage Corridor. By preserving and highlighting our pioneering industrial past, we can foster a better future and an increasing sense of pride for our citizens.

--more--

That was the vision I had back in the Spring of 1983. It was then I initiated the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management and representatives of Congressional Delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

The birthplace of the American industrial revolution is well worth preserving and we, on the federal level, should do what we can to support that effort. When we look at historic battlefields throughout America, we should not overlook one of our most important battles--the economic battle of the industrial revolution.

In these times of increasing international competition throughout the world's marketplaces, we owe it to ourselves and our children to make sure that this economic battle site is preserved and that we learn from its lessons.

Thank you again for the vital role you have played in securing national recognition of the Blackstone River Valley as the cradle of the American industrial revolution. With your continued assistance, we all soon will share a deeper appreciation of our industrial roots and our rich heritage.

--END--

Senator BUMPERS. Senator Chafee.

STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM RHODE ISLAND

Senator CHAFEE. Mr. Chairman, apparently the merit of our proposal is in inverse ratio to the length of time we take here. So, I will be brief and echo everything that my senior colleague said.

I do want to stress one particular point, that is, that this is not an organization which is seeking a handout from the Federal Government unattached to local contributions. In other words, both the State of Rhode Island and the State of Massachusetts have each put up nearly $2 million apiece for this corridor and each has pledged to spend about three-quarters of a million dollars in the current year, that is, annually as current expenditures.

Now, why are we here? We are here because we are seeking an increase for the operating contribution from the Federal Government from a quarter of a million dollars to $350,000.

Second, we are here to seek $2.7 million over a 3-year period $700,000 next year, and $1 million and $1 million in the following 2 years. These moneys will be used to purchase some critical open spaces that make this corridor possible. They will be used for the development of exhibitions, visual exhibitions, and preservation and restoration activities.

A remarkable job has been done here, Mr. Chairman, extending, as my colleague, Senator Pell, said, 46 miles down from Worcester to Pawtucket, RI, encompassing two States. And both of us support it strongly.

And I commend everything that Senator Pell said, especially his remarks about Bob Bendick, our Director of Environmental Management, who has done an excellent job from the Rhode Island point of view on this corridor park.

Thank you very much.

[The prepared statement of Senator Chafee follows:]

News From
SENATOR JOHN CHAFEE
RHODE ISLAND
567 DIRKSEN BUILDING WASHINGTON D.C. 20510-3902 (202) 224-2921

STATEMENT BY

SENATOR JOHN H. CHAFEE

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON

PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

ON S. 830, AMENDMENTS TO THE BLACKSTONE RIVER VALLEY

NATIONAL HERITAGE CORRIDOR ACT

June 8, 1989

Thank you, Mr. Chairman, for the opportunity to testify before this subcommittee on S. 830, the amendments to the Blackstone River Valley National Heritage Corridor Act. The Blackstone Valley area is one of Rhode Island's environmental and cultural jewels, and I am pleased to see that the Subcommittee is taking action on this important legislation. I would also like to welcome Bob Bendick and Dick Moore, both of whom have been deeply involved in the Corridor's progress.

For centuries, the Blackstone River has been winding through 45 miles of Massachusetts and Rhode Island countryside. The first to inhabit the Valley were the Native Americans, who daily realized

the abundant resources of the River by fishing, hunting, and boating. Later, during the 18th century, settlers came to the Valley in search of new farmlands. But more importantly, they found a powerful and valuable new source of energy in the River.

By the late 1700s, bustling towns had appeared up and down the Blackstone River. They were soon joined by sawmills that thrived on the power provided by the waterway's natural 450 foot drop between Worcester and Providence. Slater's Mill, the River's first textile mill, was built in 1793, signalling the true beginning of our country's Industrial Revolution. The Blackstone Canal opened, the Providence-Worcester Railroad was inaugurated, and the Valley flourished.

There are few other areas in the country that have had such a rich and diverse history. And the sense of community that was so strong over a century ago still exists today. The people of the towns and cities in the Blackstone Valley -- from Grafton to Uxbridge to Pawtucket -- are proud of their region and are enthusiastic about its preservation and revitalization.

Conservation efforts are underway on all levels. With the help of the Rhode Island and Massachusetts Congressional delegations, these efforts culminated in an Act to establish the Blackstone River Valley National Heritage Corridor. This

legislation established a unique type of urban park: a park to highlight the cultural, historic, and economic resources of the Corridor.

The Blackstone River Valley Commission recently gave a presentation on its achievements over the past three years and its goals for the future. As an author of the original Blackstone Valley legislation, I was pleased to learn of the Corridor's progress. New land has been acquired, new projects have been started, and a comprehensive management plan has been developed.

I would like to emphasize that the state of Rhode Island fully recognizes that this project is a joint effort between the states and the federal government. We have put into the Corridor a significant amount of state resources. In 1987 and 1988, the state of Rhode Island contributed nearly $1.9 million toward the Corridor's progress; Rhode Island has pledged to spend at least another three-quarters of a million this year.

We in Rhode Island, and our neighbors in Massachusetts, are ready to commit state resources toward preserving and enhancing the Corridor. But, as Congress recognized three years ago, we do need some federal help.

The legislation now before this subcommittee will help the Commission achieve their future plans by finetuning the original legislation. It provides the necessary funding for the Corridor's completion. The Commission will be able to develop visual exhibit centers, restore historic structures, and obtain critical open space areas. It will have the resources to hire land-planning and historical specialists. And it will be able to cosponsor special historical and educational events in conjunction with local communities.

This Act has widespread support, from the local communities to the Governor to the National Park Service of the North Atlantic Region. Thanks to these groups' hard work, the Corridor's development has gone far and fast. It is truly on its way to becoming a "living Corridor."

State of Rhode Island and Providence Plantations
EXECUTIVE CHAMBER, PROVINCE

Edward D. DiPrete
Governor

1989 APR 10 AM 10:31

April 5, 1989

The Honorable John Chafee
SD-567 Dirksen Senate Office Building
Washington, D.C. 20510

Dear John:

I am writing to express my strong support for the efforts of the Blackstone River Valley National Heritage Corridor Commission as outlined in the Commission's recent Congressional briefing session.

Specifically, I fully support the Commission's proposed amendments to the Enabling Act, P.L. 99-647 to correct the deficiencies in the sections pertaining to Commission Membership, Terms of Commissioners and Authorization of Appropriation. I also support the federal funding needs for the Blackstone River Valley National Heritage Corridor for:

1. Historic Structures Preservation and Restoration Grants ($1,000,000);

2. Critical Areas (Open Space) Preservation Grants ($500,000);

3. Interpretive Development (Visual Center Exhibit Design and Construction) ($1,000,000);

4. Cultural Heritage Program ($200,000);

5. Annual Operation Budget ($350,000);

6. Annual Park Service Appropriations ($50,000).

I am aware of your past leadership and support for the establishment of the Corridor, and want to take this opportunity to commend you and thank you for that support. The recent unparalleled growth in the Valley increases the urgency for strong action at this time to implement the Commission's emerging cultural heritage preservation and land management planning guidelines. This cannot be done without the significant Federal support requested by the Commission.

Any assistance you can provide in helping the Heritage Corridor Commission to achieve its objectives will be greatly appreciated.

Thank you for your interest.

Sincerely,

Edward D. DiPrete

Edward D. DiPrete
Governor

Senator BUMPERS. Thank you very much, Senator Chafee and Senator Pell. I do not have any questions of either of you. If you have other fish to fry, please feel free to leave.

Senator Graham of Florida was scheduled to be our next witness. I do not see him here. So, we will continue with Senator Reid.

STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Senator REID. Thank you very much, Mr. Chairman. I appreciate the opportunity to appear before you today in support of S. 624, as amended. This bill, as you mentioned, addresses the Apex project in Clark County, NV.

I would ask permission of this committee to allow statements of the Governor of the State of Nevada, Bob Miller, to be made part of the record and also, Mr. Chairman, that of the Nevada Department of Wildlife, both supportive of this.

Senator BUMPERS. Without objection.

Senator REID. Mr. Chairman, I am pleased with the progress of this legislation. I encourage its swift passage so that the production of ammonium perchlorate in Nevada can continue.

The Department of Defense and NASA are tasked with replacing the ammonium perchlorate capacity destroyed by the explosion of the Pacific Engineering & Production Co. in Henderson.

Restoring and stabilizing our supply of this rocket fuel component is a priority. DOD and NASA therefore want the two producers of ammonium perchlorate, Pepcon and Kerr-McGee, to get their plants under way as soon as possible. Pepcon's new plant is under construction in Utah. Kerr-McGee is proceeding with engineering and will start construction as soon as their site becomes available.

That is where this bill comes into the picture. This bill was introduced to transfer public land, enabling Kerr-McGee to relocate plant operations for the production of ammonium perchlorate. This bill is consistent with the governor's task force recommendations and that of Clark County. About 90 percent of Clark County land is owned by the Federal Government. The remaining state and private lands are severely limited.

The Federal land targeted for Kerr-McGee operations is known as Apex. This site is administered by the Bureau of Land Management within Clark County.

Special legislation is required to facilitate BLM action in a timely manner. The county is willing to purchase at fair market value the land required for an industrial park. This park would provide Kerr-McGee with a location to resume production of ammonium perchlorate in a place that is distant from any populated areas.

After the transaction between BLM and Clark County, the county intends to sell this land to Kerr-McGee.

Mr. Chairman, quick action to pass this bill is required to restore America's capacity to produce ammonium perchlorate. Our national defense and space program rely on this product. This bill is essential. It will ensure that we move swiftly to locate this industry and others like it away from Nevada's population centers.

At the same time, the bill reflects a sensitivity to prior existing rights and to environmental needs. This bill will also ensure that

we plan appropriately so that development does not impact the desert tortoise population. This legislation will protect the rights of others now occupying the site and will provide opportunities for additional companies to establish operations.

This bill provides opportunities for many, as well as establishing the foundation for restoring a vital component of this country's defense and space program.

Mr. Chairman, in closing, let me just say that the present operation of Kerr-McGee is located in the middle of a populated area, and it really needs to be moved away from there as soon as possible.

I appreciate this subcommittee's rapid consideration of this bill and, of course, will be available at any time to answer any questions you have or provide any additional information.

[The prepared statements of Governor Miller and the Nevada Department of Wildlife follow:]

STATEMENT OF GOVERNOR BOB MILLER

PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE
SENATE ENERGY AND NATIONAL RESOURCES COMMITTEE
S 624

JUNE 8, 1989
WASHINGTON, D.C.

MR. CHAIRMAN AND SUBCOMMITTEE MEMBERS, I APPRECIATE VERY MUCH THE OPPORTUNITY TO REPRESENT THE STATE OF NEVADA IN YOUR HEARING ON S 624. THE BILL ENJOYS THE STRONGEST POSSIBLE SUPPORT FROM ME, MY ADMINISTRATION AND, I BELIEVE, THE PEOPLE OF NEVADA. WE ALSO WANT TO ACKNOWLEDGE THE WORK DONE ON THIS LEGISLATION BY OUR ENTIRE CONGRESSIONAL DELEGATION. SPECIAL THANKS, OF COURSE, TO SENATORS REID AND BRYAN.

AS YOU ARE WELL AWARE, ON MAY 4, 1988, THE PACIFIC ENGINEERING AND PRODUCTION COMPANY FACILITY NEAR HENDERSON, NEVADA EXPLODED. THE FACILITY MANUFACTURED AMMONIUM PERCHLORATE, THE OXIDIZER FOR SOLID ROCKET PROPELLANTS, AND ESSENTIAL TO OUR SPACE PROGRAM AND TO OUR NATIONAL DEFENSE. THAT FACILITY WAS ONE OF ONLY TWO IN THE UNITED STATES PRODUCING THIS KEY CHEMICAL. THE OTHER, IRONICALLY, IS THE KERR MCGEE FACILITY WITHIN A MILE OR SO OF THE SITE OF THE MAY 4 EXPLOSION.

THAT EXPLOSION, WITH MIRACULOUSLY LIMITED LOSS OF LIFE, BUT EXTENSIVE PROPERTY DAMAGE OVER A WIDE AREA, STARTED A SERIES OF EVENTS IN PART LEADING TO THE PROPOSAL BEFORE YOU.

ONLY 8 DAYS AFTER THE EXPLOSION, GOVERNOR RICHARD BRYAN, NOW U.S. SENATOR BRYAN, APPOINTED A BLUE RIBBON COMMISSION TO EXAMINE THE

ADEQUACY OF EXISTING REGULATIONS PERTAINING TO THE MANUFACTURE AND STORAGE OF HIGHLY COMBUSTIBLE MATERIALS. THE COMMISSION BECAME COMMONLY KNOWN AS THE HENDERSON COMMISSION.

GOVERNOR BRYAN ASKED ME TO CHAIR THE COMMISSION. I WAS THEN LT. GOVERNOR AND CHAIRMAN OF BOTH THE STATE COMMISSION ON ECONOMIC DEVELOPMENT AND THE COMMISSION ON TOURISM. BOTH OF THOSE AREAS OF CONCERN WERE AFFECTED BY THE EXPLOSION.

THE NINE-MEMBER COMMISSION TOOK OVER 50 HOURS OF TESTIMONY ATTEMPTING TO FIND OUT WHERE PEOPLE COULD TURN FOR HELP, WHAT WAS THE EXTENT OF THE DAMAGE, WHO WAS IN CHARGE AND, ABOVE ALL, HOW COULD WE MAKE SURE SUCH AN ACCIDENT DID NOT HAPPEN AGAIN. OUR REPORT CONTAINED 43 RECOMMENDATIONS, MOST OF WHICH HAVE BEEN IMPLEMENTED OR ARE IN THE PROCESS OF IMPLEMENTATION RIGHT NOW.

ONE SET OF 10 RECOMMENDATIONS WERE GROUPED UNDER THE HEADING "ZONING" ALTHOUGH THEY ACTUALLY GO WELL BEYOND TRADITIONAL ZONING MATTERS. UNDERLYING SEVERAL OF THE RECOMMENDATIONS IN THIS GROUP WAS THE REALIZATION THAT A GOOD DEAL MORE THOUGHT SHOULD GO INTO EXACTLY WHERE WE LOCATE HIGH HAZARD INDUSTRIES. THIS LEADS TO THE WHOLE ISSUE OF IDENTIFYING WHICH THOSE INDUSTRIES ARE, AND THEN WHERE THEY CAN BE MOST SENSIBLY LOCATED OR, AS WITH KERR-MCGEE AND SEVERAL OTHERS, RELOCATED.

A MAJOR GOAL OF THE STATE OF NEVADA, ENJOYING A BROAD CONSENSUS, IS THE DIVERSIFICATION OF OUR ECONOMY. I AM PERSONALLY AND DEEPLY INVOLVED IN OUR EFFORTS TO ATTRACT A VARIETY OF NON-TOURISM BUSINESS TO THE STATE. I'M PROUD TO SAY WE'VE BEEN VERY SUCCESSFUL. HOWEVER, OUR DIVERSIFICATION GOALS, OR ANY OTHERS FOR THAT MATTER, MUST BE SECONDARY TO OUR CONCERN FOR PUBLIC HEALTH AND SAFETY. I BELIEVE THAT WE AGREED, AFTER OUR STUDY, THAT WE CAN HAVE INDUSTRIAL GROWTH IN NEVADA THAT WILL NOT ENDANGER HEALTH OR SAFETY. TO ACCOMPLISH THIS, HOWEVER, WE ALSO FELT THAT FAR GREATER PLANNING, AND DIRECTION WOULD HAVE TO BE GIVEN AT ALL LEVELS OF GOVERNMENT.

I WILL COME BACK TO THE SOLUTIONS WE SUGGESTED, AND IN PARTICULAR S 624, IN A MOMENT. FIRST, I WANT YOU TO KNOW MY PERSONAL CONCERN THAT AMERICA RETAIN ITS INDUSTRIAL BASE AND COMPETE EFFECTIVELY WITH NATIONS AROUND THE WORLD. OF SPECIAL CONCERN, HOWEVER, IS MAINTAINING OUR NATIONAL DEFENSE INDUSTRIAL BASE. I KNOW THAT CONCERN IS WIDELY SHARED BY THIS CONGRESS, AND THAT YOU ARE TAKING ACTION TO INSURE THAT OUR MANUFACTURING CAPABILITY REMAINS STRONG. SUCCESS IN THAT AREA DEPENDS ON MANY THINGS. TODAY I WANT TO ADDRESS JUST LOCATION.

INDUSTRIES SUPPORTING OUR NATIONAL DEFENSE, LIKE PACIFIC ENGINEERING AND KERR MCGEE, OFTEN PRODUCE PRODUCTS THAT CAN BE DANGEROUS IF NOT PROPERLY HANDLED OR FOR WHICH THE MANUFACTURING PROCESS ITSELF POSES CERTAIN THREATS. YET THESE INDUSTRIES ARE ESSENTIAL. AND IF GOVERNMENT FEELS THAT IT IS NECESSARY TO PROSCRIBE SUCH INDUSTRIAL DANGER,

GOVERNMENT MUST ALSO ASSURE THAT THEPE ARE OTHER AREAS AVAILABLE. I BELIEVE THE TWO RESPONSIBILITIES GO HAND IN HAND.

NEVADA HAS HAD A LONG HISTORY OF SUPPORTING OUR NATIONAL DEFENSE, AND IT'S A HISTORY OF WHICH WE ARE VERY PROUD. BUT ITS NOT ALL IN OUR HISTORY. WE ARE PROUD TODAY TO HOST ESSENTIAL NATIONAL SECURITY FACILITIES SUCH AS NELLIS AFB, FALLON NAS AND THE NEVADA TEST SITE. BUT WE ALSO WANT TO BENEFIT FROM OTHER DEFENSE INDUSTRIES THAT MAY BE INTERESTED IN NEVADA. AND WE CERTAINLY WANT TO KEEP THOSE WE HAVE, LIKE KERR MCGEE.

IN NEVADA, HOWEVER, AS MEMBERS OF THIS SUBCOMMITTEE CERTAINLY KNOW, LARGE TRACTS OF PRIVATELY OWNED LAND THAT WOULD BE APPROPRIATE FOR THE SITING OF LARGE SCALE, HIGH HAZARD INDUSTRY ARE VERY FEW. IN FACT, IN SOUTHERN NEVADA, PACIFIC ENGINEERING COULD NOT FIND A SINGLE SUITABLE SITE, NECESSITATING THE REBUILDING OF THEIR FACILITY IN UTAH.

WHAT YOU HAVE BEFORE YOU TODAY IS A BILL THAT WOULD TRANSFER PUBLIC LANDS TO CLARK COUNTY, NEVADA TO ESTABLISH A HIGH HAZARD INDUSTRIAL PARK IN A LOCATION WELL REMOVED FROM THE POPULATION CENTERS OF CLARK COUNTY, BUT WITH ALL THE FACILITIES NEEDED BY INDUSTRY. THE CREATION OF THE PARK PROPOSED WILL INSURE THAT EXISTING DEFENSE CONTRACTORS IN NEVADA WHO ARE NOW LOCATED IN AREAS POSING PUBLIC SAFETY THREATS WILL HAVE APPROPRIATE SITES. IT WILL INSURE THAT SOUTHERN NEVADA HAS A PLACE FOR INDUSTRIES THAT WILL HELP IN DIVERSIFYING OUR ECONOMY, BUT WHICH COULD NOT NOW FIND SUITABLE SITES. IT WILL ALSO INSURE THAT CRITICAL DEFENSE

INDUSTRIES THAT MAY WELL RUN INTO PROBLEMS WITH CURRENT LOCATION OR EXPANSIONS WILL HAVE A SAFE, MODERN AND PRODUCTIVE LOCATION.

IN SHORT, S 624, SERVES OUR NATIONAL DEFENSE GOALS, NEVADA'S ECONOMIC DIVERSIFICATION GOALS AND THE NEEDS OF A SIGNIFICANT PART OF AMERICAN INDUSTRY. IT IS NEEDED AND IT IS GOOD PUBLIC POLICY.

THANK YOU FOR YOUR ATTENTION. I URGE YOUR SUPPORT FOR S 624. THE STATE OF NEVADA STANDS READY TO ASSIST IN ANY WAY POSSIBLE THE REALIZATION OF THE GOALS REFLECTED IN THE BILL.

Testimony Provided by the Nevada Department of Wildlife
To the Subcommittee on Public Lands, National Parks, and Forests
Of the Committee on Energy and Natural Resources

Apex Land Transfer Proposal
June 8, 1989

Dear Mr. Chairman:

The Nevada Department of Wildlife appreciates the opportunity to provide written testimony on an issue which is of importance to the State of Nevada and germane to the mandated responsibilities of our agency.

As a preface to the following statements, it is important that you understand our agency supports the proposed Apex land transfer or other associated land sales which are deemed to be in the public interest, and of overall benefit to the State of Nevada. We do believe, that such activities must consider and make provision for protection of native fish and wildlife species. We have particular interest in the Apex proposal because of the presence of the desert tortoise in the area proposed for sale.

By way of brief background, representatives of our agency have been working with the Bureau of Land Management, Clark County, Kerr-McGee, Desert Tortoise Council, Sierra Club, and many other interest groups to insure that provisions of the Apex land transfer provide adequate consideration for wildlife. We provided comment at public hearings and written input on the draft environmental assessment which was prepared for the Bureau of Land Management during January of this year. We strongly support

the provisions and mitigating measures provided for in the final environmental assessment.

Our primary concern associated with the proposed land sale relates to the need for assurances that populations of desert tortoises in southern Nevada will be protected. You are probably aware that this species has been proposed for listing as endangered under the Federal Endangered Species Act and is currently being considered for listing by the U. S. Fish and Wildlife Service. Land development activities in southern Nevada are encroaching on desert tortoise habitat.

The language as currently written in the amendment in the nature of a substitute to H.R. 1485 under Subpart 6 of Section 102 which references the conditioning of the land transfer upon provision of all measures appropriate to prevent or mitigate environmental impacts as documented in the April 1989 environmental assessment appears to adequately address many of the tortoise related concerns. We also support Subpart 7 of Section 102 which references the need to accelerate implementation of the Bureau of Land Management's rangewide plan.

While the draft legislation requires a written commitment between the county and Kerr-McGee to mitigate adverse effects on wildlife as provided for in Subpart (a) of

Section 106, and other wildlife concerns are adequately addressed in the document, we believe the proposed action would strongly enhance benefits for wildlife if some of the funds from the sale of the land were dedicated to the acquisition or management of important desert tortoise habitats in southern Nevada.

Thank you, again, for the opportunity to provide these comments.

Senator BUMPERS. Thank you, Senator Reid.
Senator Bryan.

STATEMENT OF HON. RICHARD BRYAN, U.S. SENATOR FROM NEVADA

Senator BRYAN. Thank you very much, Mr. Chairman. I would endorse the comments of my senior colleague and express my appreciation to you for convening the prompt hearings on this piece of legislation.

I have a statement which I have previously asked to be incorporated in part of the record, and I would like to supplement that with a copy of the governor's blue ribbon commission which was empaneled immediately following this explosion.

On May 4 of 1988, the Las Vegas Valley was rocked by a series of explosions. It destroyed the Pepcon facility, which is one of only two producers of ammonium perchlorate in the Nation. In addition, within a radius of five miles, all glass that was facing the explosion site was knocked out of buildings, automobiles were literally blown off the sides of the highway, extensive damage was reported as far as 12 miles from the site of explosion. It was a terrifying event.

The explosion occurred in a place called the Old Basic Magnesium Complex. During the early days of World War II, as the Nation prepared for expanding its industrial capacity, the area that today is known as Henderson, NV, was sited for basic magnesium processing. Following World War II, when the magnesium complex was no longer required, other industries moved in there, including the ammonium perchlorate production at Kerr-McGee, which is the only other facility that is presently operational.

Immediately following the blast, I, as Governor, empaneled a blue ribbon commission, the report of which I ask be made a part of the files, Mr. Chairman.[1]

Senator BUMPERS. It will be. Thank you.

Senator BRYAN. Among the recommendations that were made at that time was the recommendation to relocate from the Basic Magnesium Complex other hazardous manufacturing operations. Kerr-McGee is part of that industrial complex. In the years that followed World War II, that complex became surrounded by a heavy concentration of urban development, housing and other light business manufacturing. The Apex location is an ideal place to move that rather dangerous type of manufacturing activity, out of the urban corridor in southern Nevada, and yet at the same time, be in proximity to all of the services that are necessary.

This is a very carefully crafted piece of legislation, as my colleague pointed out, and I would certainly urge, Mr. Chairman, you and the members of this committee to take prompt action.

Each of the space shuttles that are launched consume 1.7 million pounds of ammonium perchlorate. Not only the space program, but our national defense satellites use ammonium perchlorate as an oxidizing agent, as a solid fuel propellant. Most all of the missile systems which the Members of Congress are very much familiar with have this as an oxidizing agent.

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[1] The report has been retained in subcommittee files.

We have in this country today only one operational facility. And what is incredible is that as a country we allowed our only two manufacturing facilities to be located less than a mile from each other.

As Senator Reid has indicated, Pepcon is in the process of rebuilding. Kerr-McGee continues to operate. It is a quality business. It has been part of the southern Nevada scene for a good many years, and they have worked with the state and the congressional delegation.

I would commend the legislation to you, Mr. Chairman.

[The prepared statement of Senator Bryan follows:]

TESTIMONY OF SENATOR RICHARD BRYAN BEFORE THE
PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE
OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

S.624--APEX LAND TRANSFER PROPOSAL

June 8, 1989

On May 4, 1988, the Las Vegas Valley was rocked by a series of explosions which destroyed the Pacific Engineering and Production Company (PEPCON) industrial plant in Henderson, Nevada. This plant was one of the nation's two producers of ammonium perchlorate, a critical component that comprises about 70% of the propellant for both the Space Shuttle and the Nation's military solid rocket systems.

The force of the explosion was so intense it has been compared to that of a small nuclear weapon. The shock wave from the final explosion totally destroyed the PEPCON plant, leveled an adjoining factory, threw automobiles off nearby roads, and moved buildings off foundations over a mile away. Almost all windows facing the plant within a five mile radius were shattered, and property damage occurred over twelve miles away. The property damage estimate that resulted from the explosion was in excess of $75,000,000. Miraculously, only two lives were lost in the tragedy.

As Nevada's Governor, I immediately created by executive

order a commission of experts to examine the causes of the disaster and to propose solutions that would protect the citizens of Clark County from similar accidents in the future. The commission I appointed made 43 specific recommendations, many of which have been implemented. The legislation before you was engendered from the commission's recommendations.

I submit for the record a copy of The Governor's Blue Ribbon Commission to Examine the Adequacy of Existing Regulations Pertaining to the Manufacture and Storage of Highly Combustible Materials (The Henderson Commission) Final Report, dated August 10, 1988.

The nation's only remaining producer of ammonium perchlorate, Kerr-McGee, operates a plant about a mile from the location of the May 4, 1988 explosion. It is estimated that over a quarter of a million citizens live within a ten mile radius of the plant. A similar explosion at the Kerr-McGee plant would be even more destructive. Currently, Kerr-McGee is the nation's only producer of this important strategic chemical.

This legislation is critical to both my State and to the United States. It will allow the Secretary of the Interior to immediately sell to Clark County 3,800 acres of land at Apex and allow the expeditious relocation of the Kerr-McGee production facility to a safe location, consistent with the recommendations of the task force I commissioned as Governor. The county will

also receive authority to acquire additional land over a ten year period to create a heavy industry development site so that other dangerous, but necessary, industrial activities can be relocated outside the increasingly urban areas of Clark County.

Nevada has always supported the strategic efforts of our nation. The industrial plants in Henderson were first developed during the World War II era, before Clark County became the densely populated, urban area it is today. In order to retain this important part of our heavy industry and defense industrial base, it only makes sense to locate these activities away from populated areas. Nevada is fortunate to have suitable sites, but since so much of Nevada's land is under federal jurisdiction (nearly 87 per cent) it is essential that the transfer of some federal lands to local jurisdictions is authorized.

The legislation is critical to the nation because ammonium perchlorate is a major component of the fuel used by NASA in the space shuttle program and by the Department of Defense in its numerous rocket and missile programs. The remaining production capacity is insufficient to meet the nation's needs and the planned 40 million pound per year facility proposed will be an essential part of the nation's strategic resources as soon as production is commenced.

The Apex site is ideal for this purpose since it is close to Las Vegas which has the infrastructure and labor pool necessary for economic operation of the facility, and yet is far enough removed from the population center to protect the citizens and the environment. I therefore urge this committee to report favorably this necessary legislation.

Senator BUMPERS. Thank you, Senator Bryan. Let me just ask you a couple of questions.

I understand this bill transfers 3,800 acres or at least allows—is it Clark County?

Senator BRYAN. Clark County to purchase. That is correct.

Senator BUMPERS. To purchase that 3,800 acres. But it would also authorize the purchase of additional lands over a 10 year period. How much additional land?

Senator BRYAN. I do not have the exact number. Perhaps someone can provide it—17,000 acres.

Senator BUMPERS. Seventeen thousand acres?

Has a price been agreed to on any of this?

Senator REID. Fair market value. It sounds like a lot of property, but when you consider in Clark County, Mr. Chairman, over 90 percent of the land is owned by the Federal Government and the remaining 10 percent—some of which has controls that do not allow development of the land—17,000 acres isn't very much. The State of Nevada has I believe about 73 million acres. Clark County consists of the large part of the State of Nevada, and it would allow some orderly growth to take place in the future.

Senator BRYAN. Mr. Chairman, if I might amplify the comment of Senator Reid, what is contemplated is that having gone through this horrible experience in May of last year—and I can tell you that when I flew from Carson City down there, I have never seen anything like it in my lifetime. As I approached the site, automobiles on the roadway had literally been blown across the road, and the side of the automobile that faced the explosion itself was literally collapsed into the frame of the automobile. Miraculously only two people were killed.

But the concept that is advanced here is that type of hazardous industrial process can be relocated to a park in the metropolitan southern Nevada area that does not have the kind of congested urban development which has occurred near the currernt site. When this facility was built in the early 1940's, there was no development out there. Indeed, Henderson was built as part of a townsite to support that type of activity. In the intervening years, the metropolitan population has grown to in excess of 600,000. And so, we are really talking about public safety, Mr. Chairman.

We also recognize in Nevada that we have a critical responsibility to make sure that that production continues for national defense and our space programs and other types of activities that depend upon ammonium perchlorate.

Senator BUMPERS. Will all this land be contiguous?

Senator BRYAN. It would.

Senator BUMPERS. In your statement, Senator Bryan, you said a "site so that other dangerous, but necessary, industrial activities can be relocated outside the increasingly urban areas of Clark County." Do you anticipate moving present dangerous industries out of the metropolitan area into this area, or are you just talking about new potentially dangerous plants that might want to locate out there, or both?

Senator BRYAN. Mr. Chairman, I wouldn't want to foreclose either of those two options. In the industrial complex, which is a rather substantial complex, there are other manufacturing enter-

prises, and there has been discussion about where they should be located. There are people who will be here from Clark County who can address this more specifically. But there have been some discussions, rather frankly, in light of what occurred on May 4 of last year, that perhaps other activities conducted in that complex—activities other than ammonium perchlorate—which themselves constitute some potential for danger, that ultimately there may be a relocation of those as well.

Senator REID. Mr. Chairman, in addition to what Senator Bryan has said, there are also ongoing negotiations with Clark County and the company that controls the solid waste disposal in the entire metropolitan area. The landfill that has been used for decades now has just a short—and I mean less than 3 years—lifetime left, if that, in its present location. They are negotiating with Clark County now to use part of this area for solid waste disposal including some hazardous wastes.

Senator BUMPERS. Thank you both very much for being with us.

Senator BRYAN. Thank you very much, Mr. Chairman.

Senator BUMPERS. Senator Graham has joined us now and, Senator Graham, by being dilatory, you missed your slot, but we are happy to receive you now. [Laughter.]

Please feel free to proceed.

STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM FLORIDA

Senator GRAHAM. Thank you very much, Mr. Chairman.

In penitence for that, I will submit for the record my full statement and summarize verbally if that is acceptable to the Chair.

Senator BUMPERS. You are excused for your tardiness.

Senator GRAHAM. Mr. Chairman, I am here today on behalf of legislation entitled the De Soto Trail Commission Act of 1989. This legislation has been cosponsored by my colleagues, Senators Mack, Gore, Nunn, Pryor, Cochran, Fowler, Shelby, and my colleague, Congressman Charles Bennett, has introduced identical legislation in the House of Representatives.

This legislation, Mr. Chairman and Senator Burns, commemorates the expedition of Hernando De Soto through 10 Southeastern and Southern States. It does so through establishing a commission, an archaeological and historical research entity for studies related to the De Soto expedition, a commemorative highway route of the De Soto expedition, and a comprehensive plan for the administration of such a highway system.

This legislation is in keeping with Park Service findings which resulted from 1987 legislation which required a study of the appropriateness of designating the De Soto trial as part of the National Trail System. That study, Mr. Chairman, indicated that because of some concerns as to the precise location of a trail, which was blazed 450 years ago, there was a sense that it was not appropriate under the current definition of standards for inclusion in the national trail system, but would be appropriate for the type of designation which this legislation entails.

There are currently programs under way in almost all of the 10 states through which De Soto marched. In the State of Alabama,

significant progress has been made toward completion of a highway marking system, and as of 2 weeks ago, that system was completed in the State of Florida.

We are now celebrating the 450th anniversary of De Soto's expedition through what is now the southeastern United States. De Soto landed in Florida on May 30, 1539. He died some three years later on the banks of the Mississippi River in Arkansas.

His expedition, Mr. Chairman, did not qualify Hernando De Soto for sainthood. It was a very brutal expedition through the wilderness of the Southeastern United States. His activities, his life and his death altered forever the land that now becomes a significant part of the new world.

To date, no trail commemorates his or any of the other earliest explorations of what is now the United States. No trail highlights the importance of our Spanish and-Mediterranean heritage. None documents the complex social networks of the lost Indian civilizations who settled the land before the European expeditions. This legislation attempts to remedy those omissions.

Mr. Chairman, on May 27, 1989, we celebrated in Bradenton, Florida, the 450th anniversary of the first landfall of De Soto's expedition. Hernando De Soto died on the banks of the Mississippi in 1542. By marking the De Soto expedition, we continue that famous expedition. We know today that knowledge of the past is a treasure which is priceless for our understanding of the future. Hernando De Soto irrevocably altered the history and pattern of western civilization.

For this reason, many of my esteemed Senate colleagues have introduced this legislation, and we urge your early consideration of its enactment.

I would be pleased to respond to any questions.

[The prepared statement of Senator Graham follows:]

SENATOR BOB GRAHAM

TESTIMONY ON THE DE SOTO TRAIL

SUBCOMMITTEE ON PUBLIC LANDS, PARKS AND FORESTS

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

JUNE 8, 1989

GOOD [redacted] MR. CHAIRMAN - DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE, THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY ON THE "DE SOTO TRAIL COMMISSION ACT OF 1989". I WOULD LIKE TO THANK MY COLLEAGUES WHO HAVE CO-SPONSORED THIS IMPORTANT LEGISLATION, INCLUDING SENATORS MACK, GORE, NUNN, PRYOR, COCHRAN, FOWLER, AND SHELBY. I WOULD ALSO LIKE TO COMMEND MY FRIEND AND COLLEAGUE IN THE OTHER BODY, CHARLES BENNETT, FOR INTRODUCING IDENTICAL LEGISLATION.

THIS BILL, COMMEMORATING THE EXPEDITION OF HERNANDO DE SOTO THROUGH TEN SOUTHEASTERN AND SOUTHERN STATES, ESTABLISHES -- THROUGH A COMMISSION -- AN ARCHAELOGICAL AND HISTORICAL RESEARCH ENTITY FOR STUDIES RELATED TO THE DE SOTO EXPEDITION; A COMMEMORATIVE HIGHWAY ROUTE OF THE DE SOTO EXPEDITION; AND A COMPREHENSIVE PLAN FOR THE ADMINISTRATION OF SUCH A HIGHWAY ROUTE.

THIS LEGISLATION IS IN KEEPING WITH PARK SERVICE FINDINGS RESULTING FROM 1987 LEGISLATION, REQUIRING STUDY OF THE

APPROPRIATENESS OF DESIGNATING THE DE SOTO TRAIL AS PART OF THE NATIONAL TRAIL SYSTEM. BY ESTABLISHING A COMMEMORATIVE HIGHWAY ROUTE, WE ARE ABLE TO MARK THE TRAIL CONSISTENTLY THROUGHOUT THE TEN STATES. FLORIDA HAS RECENTLY COMPLETED ITS HIGHWAY MARKINGS, AND ALABAMA HAS MADE SIGNIFICANT PROGRESS IN DOING THE SAME.

LAST SPRING...448 YEARS AFTER THE FIRST MAJOR EXPLORATORY EXPEDITION OF NORTH AMERICA BY EUROPEANS, STATE ARCHAEOLOGIST CALVIN JONES WAS POKING AROUND A CONSTRUCTION SITE IN TALLAHASSEE, FLORIDA, WHEN HE FOUND SOME INDIAN POTTERY SHARDS. HE DUG FURTHER AND FOUND TINY LINKS OF CHAIN MAIL -- AND FRAGMENTS OF SPANISH OLIVE JARS -- AND GLASS BEADS, HANDCARVED AND INTRICATELY-COLORED.

THOSE TINY LINKS OF CHAIN MAIL WERE THE KEY. WHAT CALVIN JONES FOUND IS ONE OF THE MOST SIGNIFICANT ARCHAEOLOGICAL SITES IN THE HISTORY OF OUR COUNTRY -- THE LOCATION OF HERNANDO DE SOTO'S FIRST WINTER CAMP.

MORE THAN HALF A CENTURY BEFORE THE PILGRIMS LANDED ON THESE SHORES THE CONQUISTADORS WERE EXPLORING AND SETTLING AND SEARCHING FOR TREASURE AND WARRING WITH INDIANS AND LIVING AND DYING THROUGHOUT MUCH OF WHAT IS NOW THE SOUTHERN UNITED STATES.

THEY SEARCHED FOR LEGENDARY TREASURES OF GOLD AND JEWELS -- AND FOR A FOUNTAIN OF YOUTH -- AND FOR A ROUTE TO THE ORIENT. THEIR ADVENTURES WERE BOLD AND GLORIOUS. THEIR LEGACY WAS OFTEN DEATH.

VAST NUMBERS OF THE INDIGENOUS INDIAN PEOPLE AND THEIR SOPHISTICATED CIVILIZATIONS WERE WIPED OUT BY EUROPEAN DISEASES AGAINST WHICH THE INDIANS HAD NO IMMUNITY. MORE OF THEM WERE CAPTURED FOR THE SLAVE TRADE OR DIED IN SKIRMISHES WITH THE HEAVILY-ARMED SPANIARDS.

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SCORES OF SPANISH ADVENTURERS DIED TOO -- IN SHIPWRECKS DURING VIOLENT HURRICANES, IN BATTLE, FROM STARVATION, FROM DISEASE AND FROM DESPAIR.

THEIR LIVES -- AND THEIR DEATHS -- ALTERED FOREVER THE LAND AND THE EVENTS OF THE NEW WORLD.

THE FRAGILE EVIDENCE OF THAT EXTRAORDINARY HISTORY -- OF OUR OWN EXTRAORDINARY HISTORY -- DESERVES TO BE COMMEMORATED AND UNDERSTOOD.

NO TRAIL COMMEMORATES THE EARLIEST EXPLORATION OF WHAT WOULD BECOME THE UNITED STATES.

NONE HIGHLIGHTS THE IMPORTANCE OF OUR SPANISH AND MEDITERRANEAN HERITAGE.

NONE DOCUMENTS THE COMPLEX SOCIAL NETWORKS OF THE LOST INDIAN CIVILIZATIONS WHO SETTLED THIS LAND BEFORE US.

OUR HOUSE AND SENATE LEGISLATION COMPLEMENTS THE EFFORTS MADE BY SEVERAL OF THE STATES INVOLVED TO IDENTIFY AND PRESERVE THE TRAIL. OUR STATE OF FLORIDA HAS COMPLETED MARKING THE DE SOTO TRAIL WITHIN THE STATE'S BORDERS. THE TRUST FOR PUBLIC LANDS HAS ALREADY CONCLUDED A PURCHASE AGREEMENT FOR THE TALLAHASSEE WINTER CAMPSITE WHERE THESE ARTIFACTS WERE UNEARTHED. THE EXCAVATION, UNDER THE STATE'S SUPERVISION, WILL ADD VOLUMES TO OUR KNOWLEDGE OF THE LIFE AND TIMES OF DE SOTO AND HIS MEN.

IT WILL ALSO BEGIN TO UNRAVEL FOR US THE OBSCURED AND TANGLED THREADS OF THE VANISHED INDIAN CIVILIZATIONS. THE APALACHEE AND THE CALUSA, POLITICALLY POWERFUL AND PROSPEROUS TRIBES, WERE

DECIMATED, THEIR CULTURES DESTROYED, DURING THE CONQUISTADORS' EXPEDITIONS.

DE SOTO'S FORCES MARCHED THROUGH FLORIDA, GEORGIA, SOUTH CAROLINA, NORTH CAROLINA, TENNESSEE, ALABAMA, MISSISSIPPI, ARKANSAS, LOUISIANA AND TEXAS. GOVERNORS OF MANY OF THOSE STATES HAVE WRITTEN LETTERS, PLEDGING TO COOPERATE WITH AND SUPPORT OUR EFFORT.

ON MAY 27, 1989, WE CELEBRATED IN BRADENTON, FLORIDA THE 450TH ANNIVERSARY OF THE FIRST LANDFALL OF DE SOTO'S EXPEDITION -- ONE OF THE GREATEST EXPLORATIONS OF THE NEW WORLD. ~~IT WOULD ADD IMMEASURABLY TO THE CELEBRATION IF THE ACTUAL ROUTE COULD BE LEGISLATIVELY DESIGNATED AND MARKED IN TIME FOR THE ANNIVERSARY.~~

HERNANDO DE SOTO DIED ON THE BANKS OF THE MISSISSIPPI RIVER IN 1542. HE WAS NOT YET 40 YEARS OLD, HIS GRANDIOSE DREAMS OF GOLD AND GLORY WERE UNREALIZED.

BY MARKING THE TRAIL DE SOTO SET, WE CONTINUE THAT FAMOUS EXPEDITION. TODAY WE KNOW THAT KNOWLEDGE OF THE PAST IS A TREASURE MORE PRICELESS THAN GOLD. THE ROUTE THE SPANIARDS DISCOVERED WAS REALLY A TRAIL BLAZED INTO THE FUTURE. DE SOTO IRREVOCABLY ALTERED THE HISTORY AND PATTERN OF WESTERN CIVILIZATION. AS WE RETRACE HIS FOOTSTEPS WE WILL UNCOVER PIECES OF OUR OWN HISTORY AS FRAGILE AND AS ENDURING AS THE LINKS OF ARMOR FOUND AT THE TALLAHASSEE ARCHAEOLOGICAL SITE.

FOR THIS REASON, SEVERAL OF MY ESTEEMED SENATE COLLEAGUES AND I HAVE INTRODUCED THIS LEGISLATION TO MARK THE HISTORIC PATH OF THIS GREAT EXPEDITION AND EXPAND ARCHAEOLOGICAL AND HISTORICAL RESEARCH RELATED TO ITS EXPLORATIONS. THE DE SOTO EXPEDITION IS A

PATH TO AMERICA'S FUTURE; IT IS A PART OF THE PAST THAT ALL AMERICANS -- NOT JUST FLORIDIANS -- SHARE.

I URGE MY COLLEAGUES TO WORK TOGETHER TO SPEEDILY ENACT THIS LEGISLATION THAT WE CAN MORE FULLY COMMEMORATE AND APPRECIATE THE CONTRIBUTIONS AND HARDSHIPS OF THE EXPLORERS WHO CAME TO OUR SHORES MAY 30, 1539.

THANK YOU MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE.

Senator BUMPERS. Let me just say that I customarily do not cosponsor bills that are going to be coming before my subcommittee for a hearing, but needless to say, I strongly support the establishment of this trail and have been lobbied very heavily by some of the archaeologists and history buffs in my State. So, I would expect that this will get ginger and kind treatment in this subcommittee.

And I thank you very much for your testimony this morning.

Senator GRAHAM. Thank you very much.

Senator BUMPERS. Senator Burns, did you have any questions?

Senator BURNS. I have just one question; frankly, I'm not very familiar with this particular piece of legislation.

Thank you for being here today, Senator Graham. My question is directed to you: Does this require an acquisition of land by the federal government?

Senator GRAHAM. No. This sets up a commission to do historical and archaeological studies, much of which, I might say, have already been completed or are well advanced as a result of state action, and then to mark along appropriate highway routes where De Soto passed through that particular area.

Senator BURNS. I have no further questions. Thank you, Mr. Chairman.

Senator BUMPERS. Senator Wallop.

Senator WALLOP. Mr. Chairman, I do not have any questions.

Senator BUMPERS. Senator Graham, have historians and archaeologists at this moment pretty much established what they think was the trail? First of all, where did De Soto enter Florida?

Senator GRAHAM. Near Bradenton, Florida. There is a national historic site in Bradenton, Florida which, according to a study that was commissioned in the 1930s, is the site where he is felt by most scholars to have landed. And it was at that site that two weeks ago the 450th anniversary of that landfall was celebrated.

The answer to the first question is within limits that are the basis of our archaeological and historical knowledge of an event that occurred four and a half centuries ago, the historical commissions that have been established in most of the states do feel that they can establish the corridor within which De Soto marched.

In our state we have completed that process and have marked the corridor from Bradenton up through the central part of the state to Tallahassee where De Soto had his winter encampment in the winter of 1539 and 1540. And that site has been dug and is now an historic site. De Soto then exited Florida north of Tallahassee to march through Georgia into the Carolinas, Tennessee, back into Alabama, Mississippi, and Arkansas.

Senator BUMPERS. So, he didn't follow the gulf coast. He went up through central Georgia and Alabama and Mississippi, up into Tennessee?

Senator GRAHAM. And both of the Carolinas.

Senator BUMPERS. I wonder where he put into the Mississippi first. It looks like about 100 miles below Memphis when he first put into the Mississippi.

Senator GRAHAM. I will confess that I personally am more familiar with the beginnings of his march than the end of his march.

Senator BUMPERS. I understand we are going to have some gurus testify later who can answer these questions.

But in any event, Senator Graham, we thank you very much. I read your testimony as you were speaking rather extemporaneously. It is a beautiful statement.

Senator GRAHAM. Thank you.

Senator BUMPERS. Compliment your staff for that, will you?

Senator GRAHAM. We will compliment the author. Thank you. [Laughter.]

Senator BUMPERS. Thank you very much, Senator Graham.

We will do the next two witnesses as a panel: Hillary Oden, Assistant Director for Energy and Minerals, BLM; and Gerald Patten, Associate Director of Planning and Development of the National Park Service. Gentlemen, if you will both come up and be seated. Mr. Oden, since your name is first—you will be testifying on the Apex land transfer.

Mr. ODEN. Yes, sir.

Senator BUMPERS. OK.

STATEMENT OF HILLARY A. ODEN, ASSISTANT DIRECTOR, ENERGY AND MINERALS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. ODEN. Mr. Chairman, I appreciate the opportunity to appear here today to discuss S. 624, a bill to provide for the sale of certain Federal lands to Clark County, Nevada, for national defense and other purposes.

I believe that Senators Reid and Bryan have covered the reasons for the bill. I have a prepared statement and I have attached a summary of the bill to it.

Senator BUMPERS. We will insert it in the record, Mr. Oden.

Mr. ODEN. We support S. 624 if it is amended as suggested herein. This legislation encompasses provisions for replacement of a source of materials necessary for our national defense and for other activities which are in the national interest. We do, however, object to a number of the provisions of the bill which make it unacceptable. In addition, we believe some of the technical provisions of the bill should be more precise in order to avoid questions of interpretation. We will be pleased to work with committee staff on these technical provisions.

We have several concerns with the conveyance of the approximately 17,000 acres to the county for an industrial park. First, the bill requires NEPA compliance, then proceeds to modify that process. We note that while section 103(d) specifies compliance with NEPA, this compliance is limited by the provision that all environmental analysis be performed up front on the entire 17,000-acre tract.

It will be almost impossible to meaningfully consider environmental impacts on the entire tract at this time when the land will be developed over time for a variety of unspecified uses. In this case we would have to assume a worst case, full development scenario, which might never occur, and this could necessitate a determination that a great part of this 17,000-acre tract is not suitable for development.

We would prefer that the bill be amended to require NEPA compliance at the time Clark County wishes to acquire a specific tract

within the 17,000 acres. In that fashion, we could consider the effect of the proposed use on that specific site and, if necessary, could consider alternative locations within the 17,000 acres if the environmental review indicates problems with the proposed site.

The other alternative would be to have Clark County acquire the entire 17,000 acres in one transaction. But at that time, Clark County would be required to provide detailed information as to its development plans. If this option is selected, it could provide for payments by the county over a period of not to exceed 10 years, including interest. In addition, if this option is considered, section 203(c) of the Federal Land Policy and Management Act requiring 90-day notice to Congress should be waived.

We object to the provisions of section 103(b) which would provide that the purchase price for each parcel within the 17,000-acre tract reflect its value at the time of agreement to convey, adjusted only for inflation up to the date of transfer. These lands would be sold over a period of 10 years. There is no justification for selling them at a price that does not reflect the value of the land at the time of sale. Adjustment for inflation does not reflect increased value of the land.

The United States is entitled to receive the fair market value of its land at the time of its disposal. This is true whether lands used as a basis for establishing fair market value are developed by a private company or by a State or county government. Anything short of that would not be in the public interest.

We also object to the requirement in section 105 to deposit funds received from the sale of lands under this bill into a special account in the Treasury of the United States to be used to acquire environmentally sensitive lands. Revenues from the sale of Federal lands should be deposited in the General Fund of the Treasury. There should not be a restriction or limitation on their use. Splintering off some funds in the manner proposed in this bill is not in the public interest. Further, any land determined to be environmentally sensitive and appropriate for Federal acquisition should be acquired using the well-established budget and appropriation process.

The Apex site includes the habitat of the desert tortoise. Any conveyance of lands in that tract must provide for mitigation measures. Any sale of land in the Apex site, even the directed sale, must contain such provisions, and before the sale is consummated, we intend to require assurance that mitigation will be accomplished. This is in accord with our established practice of proceeding on a site-specific basis.

If development is incompatible with their remaining on a site and will totally preclude them, provision is made for the relocation of the desert tortoise. In areas such as security zones which do not preclude their remaining on the site, we leave them in place. These are the guidelines we used in the Summa and Aerojet transactions, and the procedure has worked well. Again, this emphasizes the need for environmental work to be done on a tract-specific basis.

We do understand the Air Force has concerns about conveyance of these tracts because of their proximity to the Nellis Air Force Base, but we will defer to that agency for its views on the issue.

When we testified before the House Subcommittee on National Parks and Public Lands of the House Interior and Insular Affairs Committee on H.R. 1485, the companion bill to S. 624, we raised the same issues we are raising today. The full committee, before reporting out the bill, amended it to address some of the issues we raised. I would like to discuss them briefly.

Our concern with NEPA compliance has been alleviated by the amendment to H.R. 1485 which allows the application of NEPA requirements to be site-specific.

The provision about pricing of lands in the Apex site has been changed to allow the fair market value price to be established for each tract as it is purchased by the county.

However, H.R. 1485, as amended, contains several provisions with which we do not concur.

Section 104(e)(1) of H.R. 1485, as reported, would withdraw the lands within the Apex site from all forms of entry and appropriation under the public land laws, including the mining laws.

Senator BUMPERS. Say that again. Read that last sentence again.

Mr. ODEN. Section 104(e)(1) of H.R. 1485, as reported, would withdraw the lands within the Apex site from all forms of entry and appropriation under the public land laws, including the mining laws, except for the Recreation and Public Purposes Act, and from operation of the geothermal leasing laws. We want to make it clear that we do not intend to convey any of this land under the Recreation and Public Purposes Act for use as industrial park development. If the intent of this language is to allow the county to purchase some portion of the Apex site for public purposes allowed under the Recreation and Public Purposes Act and not for industrial development, we would not object to that language.

Section 104(e)(1) of H.R. 1485, as reported, would allow Clark County or another party to whom a parcel of land on the Apex site is offered for sale to elect not to seek to purchase the minerals. We object to this provision. The Federal Government, not the prospective purchaser, must retain the option as to whether the minerals are to be conveyed or to be retained. This would be necessary to protect the public interest.

We find the reporting and other requirements in section 106(b) to be burdensome, unnecessary and sometimes duplicative.

In addition, a new Title II has been added by the House committee to H.R. 1485. Title II of H.R. 1485, as reported by the Interior and Insular Affairs Committee, would create a new cause of action for damages to certain national park resources from the operation of marine vessels. Such resources would include living and nonliving resources in both the water column and submerged areas up to the high water or high tide line in National Park System units. The provisions of this title would apply to both oceanic and Great Lakes areas.

Although the goals of that title are laudable, we believe this provision would create inconsistency and confusion with respect to the issue of damages to natural resources. Moreover, with respect to damages from oil spills, the administration already has proposed comprehensive oil spill liability legislation to the Congress covering compensation for damages to national parks and other resources. A comprehensive legislative approach, such as this, for all resource

damages is essential to ensure that damages are handled in a uniform and equitable fashion that is consistent with the applicable international protocols.

We, therefore, recommend that title II be amended to ensure that all damages to National Park System resources resulting from oil spills be recoverable under the Administration's proposed Comprehensive Oil Pollution and Liability Compensation Act of 1989 submitted to Congress by Transportation Secretary Skinner on May 11 and not under title II.

This concludes my statement. I would be pleased to answer any questions.

[The prepared statement of Mr. Oden follows:]

JUN 8 1989

STATEMENT OF HILLARY A. ODEN, ASSISTANT DIRECTOR, ENERGY AND MINERALS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 624, A BILL "TO PROVIDE FOR THE SALE OF CERTAIN FEDERAL LANDS TO CLARK COUNTY, NEVADA, FOR NATIONAL DEFENSE AND OTHER PURPOSES."

I appreciate the opportunity to appear here today to discuss S. 624, a bill to provide for the sale of certain Federal lands to Clark County, Nevada, for national defense and other purposes.

S. 624 would provide for the sale of approximately 20,840 acres of land in Nevada, known as the Apex Site, and presently administered by the Bureau of Land Management, to Clark County. Of this acreage, the bill would direct the sale of 3,840 acres to Clark County solely for sale to Kerr McGee. The lands would be at appraised fair market value as determined by the Secretary. The bill would authorize the Secretary to sell the balance of the tract - approximately 17,000 acres - over a 10 year period at the fair market value at the time of the agreement, with the price to be adjusted for inflation up to the date of transfer.

Kerr McGee is one of two firms which produces ammonium perchlorate, a principal component of solid rocket fuel essential to the Nation's defense and space programs. Its plant is near the city of Henderson, a populated area. It is seeking to establish a plant in a less populated area. I understand that the Apex Site meets that requirement.

Clark County seeks the balance of the Apex Site to establish an industrial park over the next 10 years.

A summary of the bill is attached to this statement.

We support S. 624 if it is amended as suggested herein. We believe that this legislation encompasses provisions for replacement of a source of materials necessary for our national defense and for other activities which are in the national interest. We do, however, object to a number of provisions of the bill which make it unacceptable. In addition, we believe some of the technical provisions of the bill should be more precise in order to avoid questions of interpretation. We will be pleased to work with Committee staff on these technical provisions.

First we suggest that the findings section of the bill be amended to clearly state the critical security need for ammonium perchlorate and the urgent need to find an alternative site for the current Kerr McGee production facility.

As to our objections:

We have several concerns with the conveyance of the approximately 17,000 acres to the county for an industrial park. First, the bill requires NEPA compliance; then proceeds to modify that process. We note that while section 103(d) specifies compliance with NEPA, this compliance is limited by the provision that all environmental work be performed on the entire 17,000-acre

tract. It will be almost impossible to meaningfully consider environmental impacts on the entire tract when the land will be developed over time for a variety of unspecified uses. In this case we would have to assume a worst case, full development scenario which might never occur -- for example, development including a hazardous waste disposal site. This could necessitate a determination that all or a great part of this 17,000-acre tract is not suitable for development. We would prefer that the bill be amended to require NEPA compliance at the time Clark County wishes to acquire a specific tract within this 17,000 acres. In that fashion, we could consider the effect of the proposed use on that specific site and, if necessary, could consider alternative locations within the 17,000 acres if the environmental review indicates problems with the proposed site.

The other alternative would be to have Clark County acquire the entire 17,000 acres in one transaction. At that time Clark County must be required to provide detailed information as to its development plans. If this option is selected it could provide for payments by the county over a period of not to exceed 10 years, including interest. In addition, if this option is considered, section 203 (c) of the Federal Land Policy and Management Act, requiring 90-day notice to Congress, should be waived.

We object to the provision of section 103(b) which would provide that the purchase price for each parcel within the 17,000 acre tract reflect its value at the time of agreement to convey, adjusted only for inflation up to the date of transfer. These lands will be sold over a period of 10 years. There is no

justification for selling them at a price that does not reflect the value of the land at the time of sale. Adjustment for inflation does not reflect increased value of the land. The United States is entitled to receive the fair market value for its land at the time of its disposal. This is true whether lands used as the basis for establishing fair market value are developed by a private company or by a State or county government. Anything short of that is not in the public interest. We also object to the requirement in section 105 to deposit funds received from the sale of the lands under this bill into a special account in the Treasury of the United States to be used to acquire environmentally sensitive lands. Revenues from the sale of Federal lands should be deposited in the General Fund of the Treasury. There should not be a restriction or limitation on their use. Splintering off some funds in the manner proposed in this bill is not in the public interest. Further, any land determined to be environmentally sensitive and appropriate for Federal acquisition should be acquired using the well-established budget and appropriation process.

The Apex Site is the habitat of the desert tortoise. Any conveyance of lands in that tract must provide for mitigation measures. Any sale of land in the Apex Site, even the directed sale, must contain such provisions, and before the sale is consummated we intend to require assurance that mitigation will be accomplished. This is in accord with our established practice of proceeding on a site specific basis. If development is incompatible with their remaining on a site and will totally preclude them, provision is made for the relocation of the desert tortoise. In areas, such as security zones, which do not

preclude their remaining on the site, we leave them in place. These are the guidelines we used in the Summa and Aerojet transactions. The procedure has worked well. Again, this emphasizes the need for environmental work to be done on a tract specific basis.

We understand the Air Force has concerns about conveyance of these tracts because of their proximity to Nellis Air Force Base. We defer to that agency for its views on that issue.

When we testified before the House Subcommittee on National Parks and Public Lands of the House Interior and Insular Affairs Committee on H.R. 1485, the companion bill to S. 624, we raised the same issues as we are raising today. The full Committee, before reporting out the bill, amended it to address some of the issues we raised. I will discuss them briefly.

Our concern about NEPA compliance has been alleviated by the amendment to H.R. 1485 which allows the application of NEPA requirements to be site specific.

The provision about pricing of lands in the Apex site has been changed to allow the fair market value price to be established for each tract as it is purchased by the county.

However, H.R. 1485 as amended contains several provisions with which we do not concur.

Section 104(e)(1) of H.R. 1485, as reported, would withdraw the lands within the Apex Site from all forms of entry and appropriation under the public land laws, including the mining laws, except for the Recreation and Public Purposes Act, and from operation of the mineral leasing and geothermal leasing laws. We want to make it clear that we do not intend to convey any of this land under the Recreation and Public Purposes Act for use as industrial park development. If the intent of this language is to allow the county to purchase some portion of the Apex site for public purposes allowed under the Recreation and Public Purposes Act and not for industrial development, we would not object to this language.

Section 104(e)(1) of H.R. 1485, as reported, would allow Clark County or another party to whom a parcel of land on the Apex site is offered for sale to elect not to seek to purchase the minerals. We object to this provision. The Federal Government, not the prospective purchaser, must retain the option as to whether the minerals are to be conveyed or should be retained. This is necessary to protect the public interest.

We find the reporting and other requirements in section 106(b) to be burdensome, unnecessary and sometimes duplicative.

In addition, a new title II has been added by the House Committee to H.R. 1485.

Title II of H.R. 1485 as reported by the Interior and Insular Affairs Committee would create a new cause of action for damages to certain national park resources from the operation of marine vessels. Such resources would include living and nonliving resources in both the water column and submerged areas up to the high water or high tide line in park system units. The provisions of this title would apply to both oceanic and Great Lakes areas.

Under this title, any person or vessel destroying or injuring park resources above a de minimus level would be liable to the United States for response costs and damages, unless the injury was caused by an act of God, war, or third party error, or unless previously authorized by law. Civil actions to recover damages, as well as injunctive relief, would be authorized. Payments made to the United States would be used to restore the area damaged, and direct donations for response costs could be accepted by the Secretary.

Although the goals of this title are laudable, we believe this provision would create inconsistency and confusion with respect to the issue of damages to natural resources. Moreover, with respect to damages from oil spills, the Administration already has proposed comprehensive oil spill liability legislation to the Congress covering compensation for damages to national parks and other Federal resources. A comprehensive legislative approach such as this, for all resource damages, is essential to ensure that damages are handled in a uniform and equitable fashion that is consistent with the applicable international protocols.

We therefore recommend that title II be amended to ensure that all damages to National Park System resources resulting from oil spills be recoverable under the Administration's proposed Comprehensive Oil Pollution and Liability Compensation Act of 1989, submitted to Congress by Transportation Secretary Skinner on May 11, 1989, and not under title II.

This concludes my statement. I will be pleased to answer questions.

SUMMARY OF S. 624

S. 624 would be cited as the "Apex Project, Nevada Land Transfer and Authorization Act of 1989". Sec. 101 of the bill contains 13 congressional findings in support of the transfer of certain Federal lands to Clark County, Nevada.

Section 102 would require the Secretary of the Interior, subject to valid existing rights, to convey to Clark County, Nevada, by a standard form general warranty deed, approximately 3,840 acres of land, known as the "Kerr-McGee Site". The lands would be conveyed to Clark County solely for sale to the Kerr-McGee Chemical Corporation in return for payment of the lands' appraised fair market value, as determined by the Secretary in accordance with established appraisal practices. In addition, the Secretary would be required, subject to valid existing rights, to grant certain utility and transportation rights-of-way to Clark County for the county's subsequent grant of easement rights to Kerr-McGee for the Kerr-McGee Site. Each right-of-way could not exceed 200 feet in width and would be subject to the standard rental payments and other conditions provided for in regulations implementing title V of the Federal Land Policy and Management Act (FLPMA).

The Secretary would be required to offer to sell the 3,840 acres of land and to grant utility and transportation rights-of-way to Clark County within 30 days of the effective date of this Act. However, the Secretary's duty to transfer the lands and grant the rights-of-way would not lapse if they are not offered to the county within the prescribed time. If Clark County fails to

purchase the lands within 60 days of receiving the Secretary's offer, the lands would become subject to the authorization provided for in section 103 of S. 624.

Section 103 would authorize the Secretary to transfer to Clark County up to 17,000 acres of lands within the Apex Site that lie outside the boundaries of the Kerr-McGee Site at the property's appraised fair market value as determined by the Secretary in accordance with established appraisal procedures. The Secretary would be authorized to enter into a land sales agreement with Clark County that provides for the transfer to be made in amounts and at times requested by Clark County over a period not to exceed 10 years. The purchase price for each parcel would be required to reflect its appraised fair market value at the time of the agreement, adjusted for inflation up to the date of transfer as measured by the annual Consumer Price Index published by the Department of Labor.

Consistent with title V of FLPMA, the Secretary would be authorized to grant Clark County any rights-of-way that may be necessary to support the development of an industrial park on the lands within the Apex Site. All laws applicable to the proposed transfer would have to be complied with, including, but not limited to, the National Environmental Policy Act (NEPA). Any environmental studies would be required to be on the total acreage proposed for purchase by Clark County, even though portions of the area may be transferred over a period of years.

The lands authorized for transfer would be withdrawn, subject to valid existing rights, from all forms of entry and appropriation under the public

land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. The withdrawal would continue in effect until the land transfers are completed.

Section 104 would require right-of-way corridors on the lands comprising the Kerr-McGee and Apex Sites that are subject to the provisions of S. 624 to be reserved to the United States. The corridors would be administered by the Secretary who would be authorized to grant rights-of-way over, upon, under and through them consistent with title V of FLPMA. He would be required, to the maximum extent feasible, to locate rights-of-way so as to impact to the least extent possible the heavy industrial uses being carried out on the site.

Section 105 would require the Secretary to use funds received from the sale of lands under the bill to acquire environmentally sensitive lands or interests in lands in the State of Nevada which can be managed as part of an existing Federal land management unit. Such funds would be required to be deposited into an account in the United States Treasury which could not be obligated until appropriated. The funds would be used to carry out land exchanges or to purchase environmentally sensitive lands in the State to mitigate for the loss of public lands at the Apex Site. The Secretary would be required to consult with appropriate State and local officials and interested environmental organizations in determining the lands to be acquired.

Section 106 would require the Secretary, as soon as practicable after the date of enactment of this Act, to file legal descriptions of the lands to be transferred under this Act with the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

Senator BUMPERS. Mr. Oden, thank you very much. If you will, just remain seated until we hear the testimony of our next witness. Mr. Patten, please.

STATEMENT OF GERALD D. PATTEN, ASSOCIATE DIRECTOR, PLANNING AND DEVELOPMENT, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY EDWIN BEARSS, CHIEF HISTORIAN, ON S. 555

Mr. PATTEN. Mr. Chairman, I appreciate this opportunity to provide your subcommittee with testimony on S. 555, the De Soto Trail Commission Act of 1989.

We oppose the enactment of S. 555. Although we recognize the national historic significance of the De Soto expedition, we cannot support the legislation's authorization of new Federal grants and loans for research purposes unrelated to park protection. We also understand that the Justice Department has serious concerns about this legislation's constitutionality.

The National Park Service has recently completed a draft feasibility study of the appropriate route traveled by Hernando De Soto as authorized by the De Soto National Trail Study Act of 1987. The purpose of this study is to consider the suitability of the expedition route for national historic trail designation.

As a result of the study, the National Park Service determined that the expedition is of national historical significance because it was the first major European exploration of the interior southeastern United States. Subsequent Spanish expeditions were planned on knowledge acquired during the expedition.

Although the expedition itself is of national historical significance, the route it followed unfortunately fails to meet the remaining two criteria for trail designation required by the National Trail System Act. Throughout the study, the National Park Service determined that there is a lack of evidence regarding the actual route location and that potential for historic interpretation cannot be adequately assessed at this time. As a result of this conclusion, it has been recommended that until the actual location of the De Soto expedition route is determined, it does not qualify as a national historic trail. At its April 1989 meeting, the National Park Service Advisory Board approved a resolution recommending against the designation of the De Soto trail as a national historic trail.

During the course of completing the feasibility study, the National Park Service analyzed several alternatives to a historic trail, including the establishment through special legislation of a commission to commemorate the De Soto expedition through designation of an existing highway and the encouragement of additional future archaeological research.

Mr. Chairman, we would be pleased to offer technical assistance and advice to States interested in commemorating the expedition through designation of existing highways as Florida and Alabama have already done. However, we cannot support S. 555's establishment of a new federally funded institute making grants and loans to promote archaeological and historical research. This is not consistent with the National Park Service's primary mission of protecting the resources of the National Park System.

Finally, as I noted at the beginning of my statement, Mr. Chairman, the Justice Department has serious concerns regarding S. 555's constitutionality. We defer to the Justice Department with respect to this issue.

This concludes my prepared testimony, Mr. Chairman.

Mr. Edwin Bearss, the National Park Service's Chief Historian, is here today. Mr. Bearss and I are prepared to answer any questions you may have.

[The prepared statement of Mr. Patten follows:]

STATEMENT OF GERALD D. PATTEN, ASSOCIATE DIRECTOR, PLANNING AND DEVELOPMENT, NATIONAL PARK SERVICE, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S.555, TO ESTABLISH IN THE DEPARTMENT OF THE INTERIOR THE DE SOTO EXPEDITION TRAIL COMMISSION.

June 8, 1989

Mr. Chairman, I appreciate this opportunity to provide your Subcommittee with testimony on S.555, the De Soto Trail Commission Act of 1989.

We oppose enactment of S.555. Although we recognize the national historic significance of the De Soto expedition, we cannot support the legislation's authorization of new Federal grants and loans for research purposes unrelated to park protection. We also understand that the Justice Department has serious concerns about this legislation's constitutionality.

The National Park Service has recently completed a draft feasibility study of the approximate route traveled by Hernando de Soto as authorized by the De Soto National Trail Study Act of 1987. The purpose of this study is to consider the suitability of the expedition route for national historic trail designation.

As a result of the study, the Service determined that the expedition is of national historical significance because it was the first major European exploration of the interior southeastern United States. Subsequent Spanish expeditions were planned on knowledge acquired during the expedition.

Although the expedition itself is of national historical significance, the route it followed unfortunately fails to meet the remaining two criteria for trail designation required by Section 5(b)(11)(A) and (C) of the National Trails System Act, as amended. Throughout the study, the Service determined that there is a lack of evidence regarding the actual route location and that potential for historic interpretation cannot be adequately assessed at this time. As a result of this conclusion, it has been recommended that until the actual location of the De Soto expedition route is determined, it does not qualify as a national historic trail. At its April 1989 meeting, the National Park System Advisory

Board approved a resolution recommending against the designation of the De Soto trail as a national historic trail.

During the course of completing the feasibility study, the National Park Service analyzed several alternatives to an historic trail, including the establishment through special legislation of a commission to commemorate the De Soto expedition through designation of an existing highway, and the encouragement of additional future archeological research.

If enacted, S.555 will authorize the Commission to:

1. Establish the De Soto Expedition Archeological and Historical Institute which will make loans and grants for archeological and historical research, and publish materials regarding the De Soto expedition and native cultures inhabiting the region during the early historical period.

2. Coordinate activities to further the commemoration of the De Soto expedition.

3. Develop guidelines and interpretive methods for the commemoration of the De Soto expedition.

4. Recommend to the Secretary which existing highways should be designated as commemorative of the expedition, and complete a plan for interpretation of the expedition.

5. Provide advice and assistance with loan or grant applications.

Mr. Chairman, we would be pleased to offer technical assistance and advice to States interested in commemorating the expedition through designation of existing highways (as Florida and Alabama have already done). However, we cannot support S.555's establishment of a new Federally-funded institute making grants and loans to promote archeological and historical research. This is not consistent with the Park Service's primary mission of protecting the resources of the National

Park System, and would draw on Federal Funds that would be better spent on higher priority projects.

Finally, as I noted at the beginning of my statement, Mr. Chairman, the Justice Department has serious concerns regarding S.555's constitutionality. We defer to the Justice Department with respect to this issue.

This concludes my prepared testimony, Mr. Chairman. I am prepared to answer any questions you may have.

Senator BUMPERS. Ed, let me ask you something. How much of this trail can be historically documented?

Mr. BEARSS. Mr. Chairman, the parts that can be actually documented are rather limited. They know exactly where he spent the first winter of the expedition of 1539 and 1540, which has been verified by archaeological excavations, recovery of objects. They have a good idea using the various journals and plotting the routes through certain of the areas, particularly the State of Florida. They have a very good idea of his route through the State of Florida, reasonably good in Georgia and through certain of the other States.

After they crossed the river into Arkansas, there is considerable debate, even in the State of Mississippi when they had the first commission in 1939. The State of Mississippi went so far as to authorize a memorial on a trailer to be exhibited half of the year around Commerce, MS, to indicate where one school of thought held a crossing into Arkansas and the other half of the year near Friars Point to indicate the other school of thought on where it crossed the river.

As they moved further west and particularly when they go into Texas, it becomes quite vague. So, there is considerable doubt in certain of the areas. It just does not reach the criteria that we would have to have for a national historical trail.

Senator BUMPERS. Ed, how many people do you estimate—what was the makeup of this expedition?

Mr. BEARSS. It started out with a force of about 500 Spanish. They would go along and pick up a large number of Native Americans when they would pass through and move from place to place. So, it was a sizable expedition.

The great Battle of Mobilia near the Cahaba River in Alabama all but broke the power of one of the major Indian nations in that area and seriously crippled the expedition.

Senator BUMPERS. How many men did De Soto lose in that battle?

Mr. BEARSS. I think he lost about 25 to 36 dead and a large number of wounded, but what particularly hurt him was the loss of a large number of the horses which were vital to the Spanish both for exploration and in their combat against the Native Americans.

Senator BUMPERS. I take it that this expedition continued. De Soto was not with him when they went to Texas, was he?

Mr. BEARSS. No, he had passed on——

Senator BUMPERS. At what? The tender age of 39?

Mr. BEARSS. Fairly young, yes—and had been secretly buried, as they would say The pictures we all remember from our high school and grade school history books were of him being interred in the Mississippi River. Senator Burns is from my native State, and even the big, thick history book we used to use in the sixth and the seventh grade in Montana always had—he is enough younger than I am and he probably used a different one, but it was a big, thick one, and it used to have the picture of the interment of De Soto in the Mississippi River.

Senator BUMPERS. Is that right up there with George Washington chopping down the cherry tree?

Mr. BEARSS. No, I think there is a little more truth to this.

Senator BUMPERS. Well, if we establish the commission to continue its work—for example, let's take the Tallahassee archaeological find. Do you find that significant?

Mr. BEARSS. I would say the archaeological find at Tallahassee is very, very significant because that is one site that they can say definitely De Soto spent the winter of 1539–40 there. Archaeology is much further advanced now than it was in the time of the commission for the 400th. I am sure with the advancements in non-destructive archaeology, other sites could probably definitely be identified like probably they could get confirmation perhaps of the park on the site.

Senator BUMPERS. Well, as you know, we are establishing a park in Arkansas where we think he was buried. And I suppose it is in the general area. Nobody knows for sure.

This is all very interesting. I can understand both viewpoints, but what if we were to pass out of here a bill establishing this commission and we provided that the commission would continue its work in archaeological diggings and so on or at least be able to—what shall I say—evaluate all historical data in trying to finalize the establishment of this trail? There are some things we know, some things perhaps we don't know, but establish this commission to continue its work in trying to make it as authentic. You know, the Soviets revise history all the time. [Laughter.]

And we could make it as authentic as we possibly could on the front end.

Senator WALLOP. What if they revised you out of a park in Arkansas?

Senator BUMPERS. Well, as long as I am on the Appropriations Committee, that isn't going to happen. [Laughter.]

What would be wrong with that, Ed? I recognize the Park Service's opposition to this bill on historical grounds, but what would be wrong with that? We know one thing. We know we are going to be marking the 450th anniversary of De Soto's expedition. He started what? In 1539?

Mr. BEARSS. Yes.

Senator BUMPERS. And when did he die? It was 1541, wasn't it?

Mr. BEARSS. It was 1542.

Senator BUMPERS. How long was it after that before the expedition concluded?

Mr. BEARSS. They spent the next winter on the Arkansas River. They had taken a swing into Texas—another winter on the Arkansas River. Then they returned down the Mississippi River, then skirted the gulf coast to return to New Spain, which of course is Mexico.

Senator BUMPERS. How did they go back down the Mississippi River? What kind of boats did they have?

Mr. BEARSS. They fabricated—quite challenging in Arkansas. And that part of Arkansas you know far better than I do, but I have been in part of Arkansas quite a bit. It would be a real challenge to have this expedition already out for three years be able to fabricate craft. Some dugouts were used. Some sawed lumber was used, fabricating the nails and things to take the expedition down the Father of Waters and then coasting the coast of what is now Louisiana and Texas and Mexico to New Spain.

Senator BUMPERS. Ed, when they started the expedition, did they leave their ships at Bradenton?

Mr. BEARSS. They left the ships. Some of them returned. And then there was a rendezvous with some of the vessels in the winter that they spent in the Tallahassee area. But after that, there was no more rendezvous. Not the whole expedition, but De Soto detached a force to go down on the gulf literal to rendezvous with several of the vessels. And then they came back and then the expedition continued.

Senator BUMPERS. How many made it back to Spain?

Mr. BEARSS. Probably just a handful ever made it back to Spain, but to get back to New Spain, which would be Mexico, probably half of them.

Senator BUMPERS. Are there any written records in any of the Spanish archives about this expedition?

Mr. BEARSS. Basically the paper trail has revealed about all it can. My friends in the archaeological profession have to verify and supplement the paper trail. But the paper trail is basically four documents, journals either maintained concurrently with the expedition or written shortly after its return. So, the paper trail and what the historians have to evaluate resolves to four documents.

Mr. PATTEN. Mr. Chairman, if I may comment on your earlier question relative to should a commission be established.

Senator BUMPERS. Yes.

Mr. PATTEN. I think Mr. Bearss would agree that the commission's work, especially in the archaeological investigations, would yield additional information that would help pinpoint perhaps more specifically the route of De Soto. That would be the benefit of such an action.

Senator BUMPERS. Mr. Oden, you have sat very patiently. Let me say that virtually all of the points you made I think are well taken. I have not had an opportunity to really look at that.

Obviously, we are always anxious to accommodate. These western Senators always feel put upon because the Federal Government owns so much of the land there. And I have always tried to accommodate their concerns and transfer land to them where there was a compelling necessity or perceived compelling need for it. But I think all of your points are well taken.

And Tom Williams, the staff director of this subcommittee, tells me that the House has already cleaned this bill up largely to comport with the objections you have cited. Is that correct?

Mr. ODEN. Yes. They have taken care of quite a number of the objections. We just mentioned a couple in addition that we would like to continue to work with them.

Senator BUMPERS. We will certainly look very closely at those.

Senator BURNS. I'm sorry.

Senator WALLOP. I never have decided in this committee whether I'm going to let people ask questions based on their arrival time or on their seniority. I think arrival time is probably better.

Senator WALLOP. Arrival time is better.

Senator BUMPERS. So, go ahead, Senator Burns.

Senator BURNS. You woke me up there for a little bit. [Laughter.]

I guess my questions would be directed to the BLM. Could you give me a brief description of what kind of land these 17,000 acres are?

Senator BUMPERS. It's Nevada.

Senator BURNS. The great American desert, I know.

Mr. ODEN. It's just northeast of Las Vegas there. It has a few hills.

Senator BURNS. But how far out of Las Vegas?

Mr. ODEN. About 12 miles north of the main area there, the junction of U.S. 93 and Interstate 15, along Union Pacific railroad.

Senator BURNS. You say in your testimony we are all worried about this tortoise here. Is it listed on the endangered species list?

Mr. ODEN. No, it isn't.

Senator BURNS. That means that he may have to fend for himself?

Mr. ODEN. It has a warranted but precluded finding, and we are trying to take care of it to make sure it doesn't go down further.

Senator BURNS. Is this land is contiguous, in other words, it is a block of land 17,000 acres? How much do you think the land is worth?

Mr. ODEN. I would hate to make an estimate on that.

Senator BURNS. Are there any developments on it now?

Mr. ODEN. I think there is a limestone quarry. There are two or three parcels of private land. Interstate 15 runs through the eastern part of it.

Senator BURNS. But for all practical purposes, it is just rangeland. Right?

Mr. ODEN. Basically.

Senator BUMPERS. Would the Senator yield for a question on that?

Senator BURNS. Yes.

Senator BUMPERS. Are there any mining claims on it?

Mr. ODEN. Yes, there are some mining claims on it.

Senator BUMPERS. Could you furnish this subcommittee with the number of claims and the amount of the land involved?

Mr. ODEN. Yes, we will.

Senator BUMPERS. We just had an 8-hour hearing we concluded at 9:00 o'clock last night on this subject.

Senator BURNS. That is a good point.

I would like to know if you went out there to buy that land and if it were held in private hands, what would the land be worth?

Mr. ODEN. Well, it all depends.

Senator BURNS. Is there water, or power to it? What is the availability of water and utilities?

Mr. ODEN. No. For this proposed Kerr-McGee plant, they will have to run about a 21-mile pipeline for water, and I also believe extend the natural gas line for the fuel.

Senator BURNS. Is it worth $10 an acre?

Mr. ODEN. I would hate to speculate on it. A lot depends on timing. Before the word was out, I suspect, that Kerr-McGee was interested in this, it wasn't worth very much, but it has probably gone up in value now.

Senator BURNS. Anytime we talk about at that fair market value, I get a little bit nervous. Once the news of a proposal such

as this gets out, fair market value seems to go up quite a lot. But if a fellow just wanted to go out there and say—the only thing it sounds like you could run on it right now are cattle. It is going to take about 100 acres per cow to live out there. Is that correct?

Mr. ODEN. At least.

Senator BURNS. A hundred?

Mr. ODEN. I think there are a couple of grazing permits, but they have been inactive for quite a while. There is probably not even much there to support grazing.

Senator BURNS. That makes me a little nervous and it makes me a little nervous about this turtle. I sure don't want to disturb those turtles.

And then going into the thing, we are not going to ship any oil across this, are we? Why should we be concerned about oilspills?

Mr. ODEN. That is in the House bill, the title II that was added on in the markup. It probably came about as a reaction of the *Valdez* oilspill I assume.

Senator BURNS. They are really off course.

I will probably have some more questions once I go over this testimony, but anytime you get into a question of fair market value, especially on desert land, I know it is probably worth about 10 bucks an acre. There is no irrigation on it?

Mr. ODEN. Not that I am aware of.

Senator BURNS. And is there any possibility of subterranean water, wells or anything like that?

Mr. ODEN. I do not know about that. I doubt that it would be very good water.

Senator BURNS. Senator Wallop, you may take over, sir.

Senator WALLOP. Thank you, Mr. Chairman.

Hillary, it is nice to see you.

Mr. ODEN. Good to see you, Senator.

Senator WALLOP. The Chairman was just commenting on your testimony and how lucid it was, and I told him that is because you got your good, solid training as a BLM director in Wyoming. I have to tell you that I still have my hat off to you for how you turned the relations between the State's various public lands users around during your tenure as our director.

Mr. ODEN. Thank you, sir.

Senator WALLOP. When Pacific Engineering and Production built their facility in Henderson, NV, there was very little development, if any, in the area. Yet, ultimately there came to be development, as you know, around it.

It is my understanding that the Apex site is really pretty remote, large blocks of vacant land and far from populated areas. What type of zoning or control does Clark County or Nevada or the Air Force or the BLM possess to ensure that 10 years from now we won't have another Henderson-like site?

Mr. ODEN. Well, we would have our land use planning vehicle as far as the intended use of that type of land and land around it. But we would also be working with Clark County. As indicated, they would intend to zone the course of 17,000 for heavy industrial use. And we would take this into account and work with them and their concerns as far as the use of the surrounding land so that

hopefully something like what happened down at Henderson would not occur here.

Senator WALLOP. There is also a pretty well established relationship between the Air Force and Clark County, and one can believe that there is no intent on the part of the Clark County Board of Commissioners to diminish operations at Nellis Air Force Base as a result of a development of this industrial park. Has BLM been in any contact with the Air Force and with Clark County to sort of prevent——

Mr. ODEN. There has been some discussion. Our understanding is—and I would prefer to defer to the Air Force—that they have some concern about retaining an navigation right to the United States to make sure that any development in the—I suspect the vertical rise of the development would have an effect on the flights from Nellis.

Senator WALLOP. Mr. Chairman, don't you think it would be worth the committee's time to obtain some kind of a statement from the Air Force as to whether or not they view this as restricting or troublesome?

Senator BUMPERS. I certainly would not be averse to that, Senator Wallop, if you would like to do that.

Senator WALLOP. I'm informed that we have one. That I didn't know.

Senator BUMPERS. Oh, we do have one?

Senator WALLOP. Yes, I just was informed that we did.

Senator BUMPERS. What is their position? I have not seen the letter.

When we get to the markup on this we will have an opportunity to ingest some of this. Obviously, the Air Force wants the right to unimpeded flights over this property.

Senator WALLOP. They also have an ambivalence. They need the fuel.

Senator BUMPERS. But Nellis is nearby, and I expect there is quite a bit of military traffic over this property.

Senator WALLOP. Hillary, do you know when the new Pepcon plant in Utah will be operational?

Mr. ODEN. My understanding is it was scheduled to be completed in July of this year.

Senator WALLOP. And what happens to the old Pepcon facility?

Mr. ODEN. It was lost in the explosion.

Senator WALLOP. Well, I understand, but——

Senator BUMPERS. It's gone. [Laughter.]

Senator WALLOP. I was talking about the land.

Mr. ODEN. I do not know.

Senator WALLOP. Is there a reversion?

Mr. ODEN. I'm not aware.

Senator WALLOP. How long will Kerr-McGee take to build?

Mr. ODEN. Looking at the environmental analysis prepared by Dames and Moore, it indicated 19 months construction period.

Senator WALLOP. What effect on the NEPA analysis, the worst case scenario analysis, would the recent Supreme Court cases on Methow Valley and Diamond Marsh have? Would this still have this requirement?

Mr. ODEN. I'm not aware of that case.

Senator WALLOP. I will tell you. We will submit it for the record. It would require more than a spur of the moment answer. We will submit that because I think it is of some interest to us.[1]

Senator WALLOP. Is the land surrounding that site primarily BLM land, the Apex site?

Mr. ODEN. Yes. Primarily there is a gunnery range to the west. I'm trying to think.

Senator WALLOP. Are there private lands around it of consequence?

Mr. ODEN. Primarily BLM lands.

Senator WALLOP. From the maps it is sort of hard to determine ownership.

Mr. Patten, it is your understanding that the $1 million in the legislation is supposed to cover all of the commission's activities for 4 years?

Mr. PATTEN. Yes.

Senator WALLOP. Based on either of your experience with commissions of this type, is $250,000 a year even close to satisfactory to carry out the purposes of this legislation?

Mr. PATTEN. I think the experience we have had generally is that commissions of that size range from $250,000 to $350,000.

Senator WALLOP. Will it be paying grants for the archaeological digs, et cetera?

Mr. PATTEN. Excuse me. I didn't understand your question, Senator.

Senator WALLOP. Would the grants cover archaeological excavations and research?

Mr. PATTEN. The administrative money would not cover those kinds of grants. That would be strictly for the operation of the commission. The additional monies being sought, yes, would then cover grants.

Are we speaking of the De Soto Commission now or the Blackstone Commission?

Senator WALLOP. Yes, the De Soto Commission.

Mr. PATTEN. The De Soto Commission, OK. I have two different testimonies going here at once.

Senator WALLOP. I apologize.

Mr. PATTEN. I'm probably confusing myself.

Senator WALLOP. The problem [illegible] trying to designate as an historic trail is the fluidity of the knowledge.

Mr. PATTEN. Yes, that's correct.

Senator WALLOP. And as I gather, your testimony is that that is more appropriately done perhaps now with markers on the known and scientifically verifiable sites.

Mr. PATTEN. Yes. As I mentioned, two states have provided markers to date. Our feasibility study looked at some different alternatives which included State and local commemoration which has started and is one appropriate way, we felt, to mark the trail as best it's known.

Senator WALLOP. Mr. Chairman, I would just observe that while the idea of the bill is romantic, the fact of it may not be so practi-

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[1] See Appendix I.

cal. I think the testimony was measured and intelligent. And I do hope that if we go on that we pay attention to the concerns of the Department of Justice which seem to be, at least to me just having read it, justifiable.

It is a little hard to ask questions when the testimony only arrives today. It is hard to get caught up on that.

The testimony, as I understood it and heard it, seemed reasoned, and maybe your idea of the commission and the study is perhaps a more prudent way at this moment to go.

Thank you very much.

The CHAIRMAN. Mr. Oden, before you leave, I want to thank you for what I think was a very fine statement. And I want you to go back and tell Bob Burford that you do believe very strongly that the U.S. Government ought to get full fair market price for its property because he was over here testifying yesterday that he thought $2.50 an acre was a grand price for a lot of our land.

Ed, let me ask you. What is the status of the Manassas case?

Mr. BEARSS. The status of the Manassas case is right now the National Park Service, the moment after the President signed the Act, took possession of the property. The appraisers for both the Federal Government and Hazel-Peterson are coming up with their figures to see what the difference is between what Hazel-Peterson thinks the land is worth, what the Federal Government thinks the land is worth, and then they will sit down and try to hammer out an agreement on it, and then proceed to try to get the differences adjudicated.

The CHAIRMAN. That is going to be a chasm wider than the Grand Canyon, isn't it, Ed?

Mr. BEARSS. Yes, I think it will be. You would not want to leap across that chasm.

Senator WALLOP. Then if our experience is true to form, having determined in some legal way what it is worth, we won't pay it. [Laughter.]

Mr. BEARSS. I think in other ways—besides what finally gets adjudicated there and the price—it has had considerable positive interest on preservation of other sites. The Conservation Foundation has bought several key tracts of land at various parks. There are other groups and there is distinct cooperation between the State, the landowners and the county government up in Washington County, Maryland, to protect through other means, not only through the acquisition of additional lands within the authorized boundary of Antietam National Battlefield, but also working out positive means for zoning that will preserve the landscape around there.

I think the goodwill that has been engendered up there may be somewhat galvanized into action by the struggle over Manassas. It has had very positive effects in several other areas, also at Richmond National Battlefield. I was down there last week to make the address on the 125th anniversary of the Battle of Cold Harbor, and the board of supervisors had representatives there, and the county has purchased 50 acres adjacent to Cold Harbor that had been zoned for development. The county has purchased it to be developed as a county park. So, I think the battle of Manassas is having very positive fallouts.

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The CHAIRMAN. That is very gratifying to hear.

Well, Ed, we value you very highly. As you know, our good friend, James McPherson, won a Nobel Prize for his "Battle Cry of Freedom." While you were noncommittal about your personal feelings about this, in deference to the Parks Department's position on it, you were certainly very helpful to me, and I will always be grateful to you for it.

Mr. BEARSS. Well, I think you deserve applause for the way you focused attention onto the problem of preservation.

The CHAIRMAN. Thank you very much.

Mr. Patten, thank you. Mr. Oden, thank you both.

Our next panel is Manuel J. Cortez, Board of Commissioners; Clark County, NV, and George B. Rice, senior vice president, Kerr-McGee; and Jeff van Ee from Las Vegas.

Mr. Cortez, your name is number one on our list. Please proceed.

STATEMENT OF MANUEL J. CORTEZ, BOARD OF COMMISSIONERS, CLARK COUNTY, NV

Mr. CORTEZ. Thank you, Mr. Chairman, members of the committee. I am Manny Cortez. I am a member of the board of commissioners of Clark County, NV, and I am here representing local government and to support our two Senators in support of S. 624, commonly known as the Apex bill.

My testimony has been submitted to you for the record. So, with your permission, I will take the liberty of summarizing it for you so that we can get along.

As you know by now, both Senators Reid and Bryan have been very, very active in this bill. Senator Reid is the sponsor and Senator Bryan, as Governor, now Senator from Nevada, was very active as a result of the Pepcon blast when he appointed a blue-ribbon committee to study the causes and to come up with some solutions.

We at the local level in Clark County have, as a result of that, implemented some very, very stringent fire codes, building codes and zoning codes knowing full well that Pepcon was not something that we wanted to recur. We learned a very valuable lesson and that is heavy industries and residential development do not mix.

As a result of that, we studied several locations within Clark County in an attempt to assist Kerr-McGee in relocating their facility. We looked at Indian reservations, we looked at private parcels, and we looked at other government sites. And we came to one conclusion: there is not enough land in private hands of sufficient size in Clark County to accommodate what we want to accomplish, and that is to develop a heavy industrial site away from the residential urban areas to ensure the safety of our residents.

And of the government sites that we looked at, only the Apex site meets our criteria; that is, it is far removed from the residential area, but still accessible to the work force. It is reachable through Interstate 15. It has a rail spur. We can get water to it. Power is available on site, and it is buffered from the metropolitan area of the city to help ensure the safety of the residents.

During the hearings in the House on H.R. 1485, most of the—in fact, my understanding is that all of the reservations that were voiced by the BLM here this morning were resolved. And I will be

pleased to answer those questions later if you would like, Mr. Chairman. Let me just cover briefly four of those points.

As was suggested in H.R. 1485, a unique approach ensuring that if the Federal Government received fair market value for their land, if Clark County was able to sell the land at more than fair market value, we would recover our improvement costs. The balance would be split with the Federal Government; that is, you would get some money back if there is some left on the table after we recover our improvement costs, and I am sure there will be.

Item number 2 is the environmental provisions of the bill were altered to reserve special areas of Clark County for future study for the Nevada tortoise desert habitat.

One other glitch, and the third point, is that Georgia Pacific, an existing operation on the site, will be permitted to purchase its site rather than receive patent under a mining claim.

And finally, the Air Force, which is a critical player in the economy of southern Nevada. And believe me, we understand what they do and we welcome them with open arms. And we would do nothing to jeopardize their goals and their mission in southern Nevada.

After dealing with the Secretary of the Air Force, it was decided that given avigation easements, my understanding is that they would sign off on the Kerr-McGee site. And the balance of the 17,000 acres, as it is drawn down over the next 10- to 12-year period, the Secretary of the Interior would confer with the Secretary of the Air Force to ensure that there is no problem and that nothing will be constructed in that space that will impede their mission. Given a signoff from the Secretary of the Air Force, then the land would be sold to Clark County.

Those are the four conditions, Mr. Chairman, and in closing I would just urge you to consider my written testimony and in so doing, enact S. 624, as amended, for the benefit of not only the Federal Government, but for the citizens of Clark County.

Thank you.

[The prepared statement of Mr. Cortez follows:]

TESTIMONY OF MANUEL J. CORTEZ
CLARK COUNTY NEVADA BOARD OF COMMISSIONERS

BEFORE THE SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE

REGARDING S 624

JUNE 8, 1989

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, GOOD MORNING. MY NAME IS MANUEL CORTEZ. I AM A MEMBER OF THE CLARK COUNTY, NEVADA, BOARD OF COMMISSIONERS.

MY PURPOSE TODAY IS TO URGE PASSAGE OF S 624, HOPEFULLY IN A MANNER CONSISTENT WITH ITS COMPANION BILL HR 1485, WHICH WAS RECENTLY PASSED BY THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE.

BY WAY OF REQUESTING YOUR FAVORABLE CONSIDERATION, I WOULD LIKE TO PROVIDE YOU WITH A BRIEF SUMMARY OF THE EVENTS WHICH HAVE CULMINATED IN THE NEED FOR THIS LEGISLATION.

ON MAY 4 OF LAST YEAR, CLARK COUNTY, AND THE NATION, WERE ROCKED BY A TERRIBLE TRAGEDY.

PEPCON, ONE OF ONLY TWO DOMESTIC PRODUCERS FOR THE ROCKET FUEL OXIDIZER AMMONIUM PERCHLORATE EXPLODED.

FROM A NATIONAL PERSPECTIVE, PEPCON REPRESENTED 60 PERCENT OF THE NATION'S PRODUCTION CAPACITY FOR THIS ROCKET FUEL

COMPONENT WHICH IS CRITICAL TO OUR DEFENSE AND SPACE EXPLORATION PROGRAMS.

COINCIDENTIALLY, KERR MCGEE, WHICH IS LOCATED APPROXIMATELY ONE MILE AWAY FROM THE OLD PEPCON SITE, NOW REPRESENTS THE NATION'S ONLY OPERATIONAL PRODUCER OF AMMONIUM PERCHLORATE.

FROM A LOCAL PERSPECTIVE, THE PEPCON EXPLOSION RESULTED IN OVER $70 MILLION IN PRIVATE PROPERTY DAMAGE AND, THANKFULLY, ONLY TWO DEATHS. THE DEVASTATION TO THE EMOTIONS OF SURROUNDING RESIDENTS CANNOT BE AS EASILY DEPICTED.

WHEN YOU CONSIDER THAT AMMONIUM PERCHLORATE WAS NOT SUPPOSED TO BE CAPABLE OF THE CATASTROPHIC EXPLOSION WHICH RESULTED, THE LIMITED LOSS OF LIFE WAS A MIRACLE.

OF THE SIX EXPLOSIONS, WHICH RESULTED DURING THE INCIDENT, THREE EXCEEDED A FIVE ON THE RICHTER SCALE.

THE HUMAN TRAGEDY COULD HAVE BEEN GREATER HAD IT NOT BEEN FOR THE HEROIC EFFORTS OF THE PLANT PERSONNEL AND THE CLARK COUNTY AND HENDERSON FIRE DEPARTMENTS.

WE LEARNED, AS OTHERS ALL OVER THE COUNTRY ARE LEARNING, THAT NEIGHBORHOOD COMMUNITIES AND INDUSTRIES HANDLING HAZARDOUS MATERIALS AREN'T ALWAYS COMPATIBLE.

FOLLOWING THE PEPCON TRAGEDY, THE CLARK COUNTY BOARD OF COMMISSIONERS DIRECTED THE DEVELOPMENT OF PROGRAMS TO MINIMIZE THE POSSIBILITY THAT SOMETHING LIKE THIS WOULD EVER AGAIN AFFECT THE RESIDENTS OF CLARK COUNTY.

MANY OF THE PROGRAMS WE WERE ABLE TO DO OURSELVES, SUCH AS CHANGING FIRE AND ZONING CODES.

HOWEVER, WE DETERMINED THAT THE MOST EFFECTIVE THING WE COULD DO WOULD BE TO FIND A BETTER SITE TO LOCATE NEW OR RELOCATE EXISTING HAZARDOUS INDUSTRIES.

FORMER GOVERNOR, AND NOW SENATOR, RICHARD BRYAN, ALSO COMMISSIONED A BLUE RIBBON PANEL TO EXAMINE THE CAUSE OF THE DISASTER AND TO PROPOSE SOLUTIONS THAT WOULD PROTECT THE CITIZENS OF CLARK COUNTY, AND NEVADA IN GENERAL.

THE GOVERNOR'S PANEL COMPLEMENTED CLARK COUNTY'S FINDINGS BY ALSO RECOMMENDING THAT HAZARDOUS INDUSTRIES BE RELOCATED AT A SITE REMOTE FROM POPULATION CENTERS.

AS WE WERE FORMULATING THIS POLICY DIRECTION LAST FALL, WE WERE APPROACHED BY KERR MCGEE REGARDING POSSIBLE SITES IN CLARK COUNTY WHERE EXPANSION OR RELOCATION OF THEIR FACILITIES COULD BEGIN DURING THE SUMMER OF 1989.

THE LEGISLATION BEFORE YOU TODAY IS A RESULT OF THIS SERIES OF EVENTS.

IDENTIFICATION OF THE APEX SITE CAME OUT OF AN ANALYSIS OF VARIOUS SITES OPTIONS IN CLARK COUNTY.

EACH SITE WAS EVALUATED WITH THE FOLLOWING GOALS IN MIND:

- A SITE OF SUFFICIENT SIZE TO ACCOMODATE THE RELOCATION OR SITING OF NEW HAZARDOUS OR HEAVY INDUSTRIES.
- ACCESSIBLE TO A LABOR FORCE, YET SUFFICIENTLY SEPARATED FROM POPULATION AREAS.
- AVAILABLE OR ATTAINABLE TO RAIL, HIGHWAYS, GAS, ELECTRIC, AND UTILITIES.

IN ADDITION TO APEX, WE LOOKED AT INDIAN RESERVATIONS, THE AEROJET EXCHANGE LAND, PRIVATE LAND AND SEVERAL TRACTS OF FEDERAL LAND OPTIONED TO THE STATE.

WE WERE LEFT WITH ONE SIMPLE FACT: NO PRIVATE LAND OF SUFFICIENT SIZE WAS AVAILABLE.

OF THE PUBLIC SITES, ONLY APEX FIT OUR SITING CHARACTERISTICS.

THROUGHOUT THE PROCESS WE WERE MINDFUL THAT NO MATTER WHERE WE TRIED TO LOCATE A SITE, BECAUSE OF THE SIZE AND TYPES OF INDUSTRY INVOLVED, THERE WERE GOING TO BE ENVIRONMENTAL IMPACTS.

FROM THE BEGINNING, CLARK COUNTY AND KERR MCGEE DEMONSTRATED UNWAVERING COMMITTMENT TO WORK WITH THE ENVIRONMENTAL COMMUNITY TO ADDRESS THEIR CONCERNS.

OUR SENSITIVITY IS EVIDENCED BY THE FACT THAT KERR MCGEE CAUSED AN ENVIRONMENTAL ASSESSMENT TO BE PREPARED, IN ANTICIPATION OF THIS LEGISLATION, WHICH ADDRESSES THE IMPACTS OF DEVELOPING THE 3800 ACRES TO BE CONVEYED UNDER SECTION 102 OF THE PROPOSED ACT.

CLARK COUNTY FACILITATED THIS PROCESS BY BRINGING TOGETHER REPRESENTATIVES OF THE STATE AND DISTRICT BLM, THE NEVADA DEPARTMENT OF WILDLIFE, AND MAJOR ENVIRONMENTAL INTERESTS.

ON AT LEAST THREE SEPARATE OCCASIONS, MEETINGS WERE HELD TO REVIEW THE PROPOSED LEGISLATION AND VARIOUS DRAFTS OF THE ENVIRONMENTAL ASSESSMENT.

MANY INFORMAL DISCUSSIONS WERE ALSO HELD WITH INDIVIDUAL REPRESENTATIVES OF THE ENVIRONMENTAL COMMUNITY.

THE PROPOSED LEGISLATION AFFECTS ONLY 22,000 ACRES IN A COUNTY WHICH CONTAINS OVER FIVE MILLION ACRES, ALMOST 90 PERCENT OF WHICH IS FEDERAL LAND.

MANY ISSUES, SUCH AS THE COMPREHENSIVE ASSESSMENT OF THE IMPACTS ON THE DESERT TORTOISE AT APEX, HAVE BEEN ADDRESSED.

KERR MCGEE HAS AGREED TO FUND A DESERT TORTOISE MITIGATION STUDY, WHICH WILL ADDRESS THE CUMULATIVE IMPACTS ON THE ENTIRE APEX TRACT.

HOWEVER, SINCE OUR COUNTY CONSISTS OF OVER 5 MILLION ACRES, WE ARE AWARE MUCH MORE MAY NEED TO BE DONE.

CLARK COUNTY IS COMMITTED TO ENSURING THAT KERR MCGEE LIVES UP TO THE SITE SPECIFIC, AND OFF-SITE MITIGATION MEASURES IDENTIFIED IN THE ENVIRONMENTAL ASSESSMENT, WHICH ARE INCLUDED AS PART OF MR. RICE'S TESTIMONY.

AS FOR THE REMAINDER OF THE APEX SITE, THE LEGISLATION ITSELF REQUIRES COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT BEFORE ANY FURTHER LAND CAN BE SOLD TO CLARK COUNTY BY THE BLM.

AS AN ELECTED OFFICIAL, I CAN ASSURE YOU THAT PROJECT PARTICIPANTS TAKE THIS RESPONSIBILITY VERY SERIOUSLY.

IN SUMMARY, YOUR FAVORABLE CONSIDERATION OF S 624 IS VITAL NOT ONLY TO THE SAFETY OF CLARK COUNTY AND ITS CITIZENS, BUT TO RESOLVING A NATIONAL DEFENSE READINESS CONCERN.

CLARK COUNTY IS COMMITTED TO ITS LONG STANDING ROLE AS A SUPPORTER OF DEFENSE READINESS.

CLARK COUNTY IS ALSO COMMITTED TO ADDRESSING THE ENVIRONMENTAL ISSUES ASSOCIATED WITH DEVELOPING THE APEX SITE.

I THANK YOU FOR YOUR CONSIDERATION OF THE APEX PROPOSAL.

I AM AT YOUR DISPOSAL SHOULD YOU HAVE ANY QUESTIONS.

/JLL:RS

The CHAIRMAN. Thank you very much, Mr. Cortez.
Which of you is Mr. Rice?
Mr. RICE. I am.
The CHAIRMAN. Mr. Rice, please proceed.

STATEMENT OF GEORGE B. RICE, SENIOR VICE PRESIDENT, KERR-McGEE CHEMICAL CORP.

Mr. RICE. Mr. Chairman, I am George Rice. I am senior vice president of Kerr-McGee Chemical Corp. I again with Mr. Cortez am very pleased to support S. 624, the proposed Apex project, Nevada Land Transfer and Authorization Act of 1989. And with me today and seated right behind me is Mr. Dean Hargass, a partner of Dames and Moore who did most of our environmental work. And he can join me if you have any questions about what we have done in the environmental area.

Obviously, in the interest of time, I have offered my written testimony for the record and would like to limit my remarks to a few brief excerpts of that testimony.

The CHAIRMAN. Your full statement will be admitted in the record.

Mr. RICE. Thank you, sir.

Ammonium perchlorate is a material critical to our Nation's space and strategic defense programs. It is a major component of the solid rocket propellant used by NASA in the space shuttle program and by DOD in numerous rocket and missile programs.

Kerr-McGee currently produces about 40 million pounds a year of AP at its plant in Henderson, NV. And quite interestingly, one of our largest customers is Atlantic Research for its plant in Arkansas.

The CHAIRMAN. One of our best citizens.

Mr. RICE. They are very good customers.

We selected or chose the Apex site as our preferred site for three reasons.

The first reason is economics mainly because we have access to lower cost Colorado River power. We should be able to produce and sell ammonium perchlorate to the Government at a lower cost.

The second reason is climate. Ammonium perchlorate must be handled in a very dry environment, otherwise it cakes and cannot be used. The humidity in southern Nevada is ideally low for that operation. At most of the other sites that we looked at, we would have had to have weatherproofed our storage areas and air conditioned the areas in which we handle ammonium perchlorate to take out the moisture from the air. And, of course, even if we did that, we weren't certain that it would work in all cases.

And the third reason for picking Apex is the people. We have a well-trained and loyal work force which we really do not want to leave. And in addition to that, we have been part of the southern Nevada business community for many, many, many years, and we have ties that we do not want to break.

Finally, my written testimony describes the amendments that were put on the bill in the House, and we do support those amendments.

And that concludes my remarks, I would be happy to answer any questions.

[The prepared statement of Mr. Rice follows:]

Statement of

George B. Rice, Senior Vice President

Kerr-McGee Chemical Corporation

on

S. 624, the Proposed Apex Project,
Nevada Land Transfer and Authorization
Act of 1989

before the

Subcommittee on Public Lands,
National Parks and Forests

of the

Committee on Energy and Natural Resources

United States Senate

June 8, 1989

Introduction

Mr. Chairman and members of the Subcommittee, I am George B. Rice, Senior Vice President of Kerr-McGee Chemical Corporation. I am pleased to appear before you today to present testimony in support of S. 624, the proposed Apex Project, Nevada Land Transfer Authorization Act of 1989.

Kerr-McGee Chemical Corporation is a wholly-owned subsidiary of Kerr-McGee Corporation, an integrated energy, chemical and natural resources development company headquartered in Oklahoma City, Oklahoma. For convenience, I will refer to Kerr-McGee Chemical Corporation simply as Kerr-McGee.

Kerr-McGee operates a number of chemical facilities throughout the country. One of the facilities it takes great pride in operating is its ammonium perchlorate (AP) plant located in the City of Henderson, Nevada, which is about 10 miles southeast of the city of Las Vegas. At this plant, we also produce sodium chlorate, sodium perchlorate, manganese dioxide and a variety of boron chemicals.

AP is a material critical to the Nation's space and strategic defense programs. It is a major component of the solid propellant used by NASA in the space shuttle program and by the Department of Defense in numerous rocket and missile programs. To give you an idea of the extent of its use, the propellant in the space shuttle booster rockets contains about 70 percent AP, 16 percent aluminum powder and 14 percent polymer. Similar amounts of AP are used in the propellants for

military rockets and missiles. There is currently no substitute for AP capable of providing comparable performance.

Kerr-McGee and its predecessor companies have operated the Henderson facility since about 1950. The plant currently is capable of producing 40 million pounds of AP per year.

Destruction of the PEPCON Plant

I am sure you are aware of the tragic incident that occurred nearly a year ago at what was then the only other AP facility in the country. On May 4, 1988, an explosion took place at the AP plant operated by Pacific Engineering and Production Company (PEPCON) in Henderson, Nevada. The explosion resulted in the complete destruction of the PEPCON plant, the loss of two lives and millions of dollars in damage to other property. With the destruction of the PEPCON facility, the nation lost a significant amount of its capacity to produce AP. Kerr-McGee's plant is now the only domestic producer of AP.

Following the explosion of the PEPCON facility, Kerr-McGee worked closely with both DOD and NASA to allocate available supplies of AP among the various programs requiring its use. By altering its production process, Kerr-McGee was able to increase the production capacity of the plant from about 36 million pounds to 40 million pounds per year.

In response to recommendations made by the Clark County Fire Department subsequent to the PEPCON explosion, Kerr-McGee reduced inventories of AP stored at the Henderson plant by 50

percent. It is also participating with DOD and NASA in further studies investigating the hazards of AP.

I should also mention that the company was able to assist the Chairman of the House Science and Technology Committee in his efforts to secure financial assistance for those who suffered property losses as a result of the PEPCON explosion. Kerr-McGee initiated and provided financial support to a program which guaranteed loans for uninsured businesses damaged by the explosion.

Need to Replace AP Production Capacity

Because AP supply is critical to the Nation's space and missile programs, DOD and NASA must ensure that the production capacity destroyed by the PEPCON explosion is replaced and its long-term AP requirements are firmed up. According to DOD's projections, until that capacity is replaced, there will be a supply shortfall of 20 million pounds per year during the next 5 years. Consequently, DOD and NASA encouraged PEPCON and Kerr-McGee to consider building new AP plants as quickly as reasonably possible. DOD and NASA advised Kerr-McGee that if Kerr-McGee were to undertake the construction of a new facility, it should begin construction as soon as possible, preferably by the summer of 1989.

In addition, Kerr-McGee has a commitment to Clark County and the City of Henderson to move the AP crossblending and inventory storage portion of its operation away from Henderson as soon as possible.

Search for a New Site

Kerr-McGee began investigating the possibility of building a new AP production and blending facility and in August of 1988 began the search for a building site. As soon as the search for a site was underway, we retained an engineering and construction firm to start designing the new plant. The preliminary engineering associated with the crossblending and storage portion of the new plant will be completed shortly, and we could start site development as soon as the site is available to us. The preliminary engineering on the balance of the plant, which consists of sodium perchlorate and ammonium perchlorate production facilities, is scheduled to be completed in mid-October and construction on that part of the plant could begin shortly thereafter. This preliminary engineering phase is projected to cost $9 million.

Although we have considered sites in other parts of the country, we have concentrated our search for a new site in the vicinity of Clark County in southern Nevada because it offers the following advantages:

1. Southern Nevada's consistently dry climate permits full-time operation of an AP plant without having to control humidity mechanically in product storage and blending areas. To maintain the proper humidity condition at other potential sites, it would be necessary to provide weather protection in the storage areas and humidity control in all blending areas, even then with no completely predictable result.

2. Within southern Nevada, Kerr-McGee could effectively utilize a portion of its existing allocation of low-cost Colorado River power at the new plant, thereby reducing Kerr-McGee's operating costs. We also hope to be able to use part of our existing allocation of Colorado River water.

3. It contains large blocks of vacant land remote from population centers.

4. Because of the presence of Las Vegas, it has in place an infrastructure capable of supporting a new plant and providing access to utility and transportation systems.

5. Kerr-McGee has a trained and dedicated work force in southern Nevada and a long-standing, mutually beneficial relationship with the citizens of the area.

We quickly learned that over 90 percent of the land in Clark County is owned by the Federal Government and most of the non-federal land is in small parcels adjacent to populated areas and therefore would not be suitable for siting a new AP plant. Thus, federal lands offer the only real possibility for a new site in southern Nevada.

When we told Clark County officials of our efforts to find a new site, they suggested we consider purchasing from it a parcel of land from within an area of federal lands known as the Apex Site, which is located about 20 miles north and east of Las Vegas. The County was considering an acquisition of the Apex Site from the Bureau of Land Management ("BLM") for an industrial development park. Kerr-McGee identified a tract of

land, approximately 3,800 acres in size, within the Apex Site which would accommodate Kerr-McGee's plans for a new AP facility and provide a buffer zone around it. I will refer to this parcel as the "Kerr-McGee Site".

Need for Legislation Directing Transfer of Kerr-McGee Site

Discussions with the BLM followed on how the Kerr-McGee Site could be transferred out of federal ownership under the Federal Land Policy and Management Act ("FLPMA") to meet the DOD and NASA time schedule. Since the BLM's land management plan for the area classified the lands for retention, the BLM indicated that FLPMA required it to amend its land use plan before it could dispose of the site. It also advised Clark County and Kerr-McGee that, based on the priorities and work load of its Las Vegas District Office, a planning amendment and eventual disposal would take two to three years, which would not allow Kerr-McGee to meet the DOD and NASA schedules. Consequently, it was suggested that Clark County and Kerr-McGee seek legislation directing the transfer of the Kerr-McGee Site.

In consultation with the Nevada Congressional delegation and the BLM, Kerr-McGee and Clark County last fall began the development of a legislative proposal to accomplish an early transfer of the Kerr-McGee Site. S. 624 represents the collective efforts of Clark County, the BLM, Kerr-McGee and the Nevada Congressional delegation to fashion such a proposal.

Let me now move to the provisions of the bill dealing with the proposed sale of the Kerr-McGee Site and associated rights-

of-way and the supporting environmental study on the proposal.

Provisions of S. 624 Directing Transfer of Kerr-McGee Site and Grant of Supporting Rights-of-Way

Section 101 of the bill contains detailed findings explaining the need for the legislation. Section 101(k) is the basic underpinning for the bill's approach to the Kerr-McGee Site transfer. That section expresses a Congressional determination that, consistent with the criteria for transfers of public land to non-federal parties under section 203 of FLPMA, the transfer of the Kerr-McGee Site "will serve a critical national need which cannot be achieved prudently or feasibly on non-federal land in Clark County and which outweigh other existing and potential uses of the lands which would be served by maintaining them in federal ownership."

The existing uses of the area and the resource management objectives for the Kerr-McGee Site specified in the BLM's existing land use plan may be summarized as follows.

Minerals. The site is presently open to entry under the Mining Law and for mineral leasing. Three placer claims and one mill site presently exist on the site. These claims do not cover unique or strategic mineral resources, and similar mineral operations are relatively common in Clark County. Since the transfer is to be made subject to valid existing rights, Kerr-McGee will compensate the owners of valid mining claims.

Wildlife. BLM wildlife objectives provide for the protection of wildlife habitat, including special management consideration for the protection of the desert tortoise. No federally listed endangered species are known or expected to regularly occur on the project site. Principal wildlife concerns include protection of a resident desert tortoise population and preservation of a bighorn sheep migration corridor.

Range and Livestock. BLM range objectives are to maintain forage for domestic livestock and wildlife. Grazing activities have not occurred on the site since 1978. According to BLM staff, grazing was discontinued because available forage was inadequate to support a viable grazing operation. The site appears to offer no significant grazing opportunities.

Recreation. BLM recreation objectives are to provide recreation opportunities, with off-road recreational vehicle (ORV) activities being the principal existing use. Several organized ORV races have been routed through this area in the past, though recent race courses approved by BLM have not used the Kerr-McGee Site. The Kerr-McGee project would not conflict with such recreation activities if the BLM should decide to continue them, inasmuch as potential race corridors could be established across the larger Apex area that would not conflict with proposed industrial operations.

In summary, the public benefits associated with the existing uses and BLM management objectives for the Kerr-McGee Site

will not be substantially affected by the proposed transfer.

Section 101(l) next states the need, as I have previously discussed, "to accomplish the transfer of the Kerr-McGee site and the supporting utility and transportation rights-of-way to Clark County as expeditiously as possible".

Section 102 directs the Secretary of the Interior (a) to sell approximately 3,800 acres of federal land at the Apex Site to Clark County at its appraised fair market value for resale to Kerr-McGee for relocation of its plant and (b) to grant the County certain rights-of-way for utility and transportation purposes for the Kerr-McGee project. The transfer will convey title to both the surface and subsurface estate in the lands. The lands are described by reference to the map which I have previously referred to and which will be filed with the Committee, while the rights-of-way are depicted in the environmental assessment discussed below. The bill provides for exact legal descriptions to be provided later by the Secretary.

The directive to the Secretary is premised on the Congressional public interest determination in section 101(k) which I have just discussed, thus obviating the need for the time consuming process that would be required for BLM to amend its existing land use plan to make that same determination. It is also premised on the Congressional determination in section 101(j) that an environmental assessment on the transfer of the Kerr-McGee Site prepared by a contractor for Kerr-McGee and the County, in close coordination with BLM, has not identified any

adverse environmental impacts that cannot be adequately prevented or mitigated by measures which the County and Kerr-McGee are committed to undertake. That environmental assessment, which I will refer to as the "EA", has been prepared in accordance with the procedural and substantive requirements of the Council on Environmental Quality's regulations (40 C.F.R. Part 700) under the National Environmental Policy Act and in close cooperation with BLM, Nevada state agencies, and interested state and local environmental organizations and is the functional equivalent of an environmental impact statement under NEPA. We have provided copies to the subcommittee staff. Because section 102 directs the Secretary to make the land transfer and rights-of-way grants and does not confer any discretionary authority on the Secretary in that regard, additional compliance with NEPA is not required.

Let me take a minute to discuss how the environmental assessment was prepared and what it shows.

Environmental Assessment on Transfer of Kerr-McGee Site

Early consultation with BLM resulted in the identification of the need for appropriate environmental analysis of the proposed land transfer and Kerr-McGee development, whether the transfer would be made under FLPMA or pursuant to specific Congressional direction. BLM and Kerr-McGee agreed upon the selection of Dames & Moore, a nationally recognized environmental consulting firm with suitable local experience, to prepare an environmental assessment in direct coordination with BLM

staff. Dames & Moore has no financial or other interest in the outcome of the project, and meets the conflict of interest provisions of 40 C.F.R. §1506.5(c). Mr. Dean Hargis, project director for the preparation of the EA, is here to answer any questions the subcommittee may have about it.

Working closely with BLM and Kerr-McGee, Clark County announced the preparation of the EA to local environmental agencies by mail and conducted a scoping meeting with interested parties on November 17, 1988. Comments received at that meeting were used to develop the scope of investigations to be accomplished. Dames & Moore coordinated closely with BLM staff during its study to receive additional guidance concerning important issues and appropriate data sources.

The Draft EA was submitted to BLM for review on January 3, 1989, and was subsequently distributed to interested parties by Clark County shortly thereafter. Clark County also conducted a meeting with representatives of local environmental groups, state agencies, and EPA to discuss the Draft EA on January 20, 1989. Comments on the Draft EA were received from BLM and the public in early February, which Clark County circulated to all interested parties with an invitation to a public comment meeting on February 16, 1989. Additional oral comments on the Draft EA were received at that meeting, and were followed up by further written comments. The Final EA includes an appendix containing all written comments received on the Draft EA, along with specific responses to these comments. In addition, the

Draft EA text was revised to reflect factual corrections and expanded analyses requested by these comments.

The EA includes an assessment of all substantive issues identified during scoping and in subsequent discussions with agency staff and interested parties. In addition to the description of the land transfer and Kerr-McGee project, the EA presents environmental data, assessment of potential impacts, and development of mitigation measures concerning: geologic conditions and hazards; hydrology and water quality; air quality; noise; biological resources (including endangered and special interest species); land use; visual resources; transportation; cultural resources; and socioeconomics.

The EA identifies several potential environmental impacts and presents impact mitigation measures designed to reduce those impacts to acceptable levels or contribute to environmental enhancement at offsite locations. The principal resource of concern identified during the EA scoping process and confirmed as an important issue in the EA is the occurrence of the desert tortoise in the Apex area. Eleven mitigation measures specifically addressing desert tortoise concerns which Kerr-McGee has agreed to implement are set forth in an appendix to my statement. In addition to the tortoise impact mitigation measures, Kerr-McGee has agreed to a number of additional mitigation measures, such as:

- Mitigation of potential impacts on bighorn sheep migration corridors by funding the installation of a

water guzzler in bighorn sheep habitat off the Kerr-McGee site at a location to be specified by the BLM;

- Compliance with recommendations of the Clark County Air Pollution Control Division concerning facility design incorporating Best Available Control Technology as required to accomplish the Prevention of Significant Deterioration provisions of the Clean Air Act;
- Direct funding by Kerr-McGee for the accomplishment of an intensive cultural resources surface survey of the Kerr-McGee development area to provide information to the Nevada State Historic Preservation Officer (SHPO) for review in accordance with Section 106 of the National Historic Preservation Act; and
- Commitment to avoid disturbance of identified cultural resources or implement a treatment plan in accordance with SHPO and Advisory Council on Historic Preservation requirements.

With the implementation of the described mitigation measures agreed to by Kerr-McGee, it is generally believed that the potential environmental impacts of the proposed Kerr-McGee facility will be reduced to acceptable levels.

Provisions of S. 624 Authorizing
Transfer of Remainder of Apex Site

Section 103 authorizes, but does not direct (unlike section 102), the further transfer of approximately 17,000

acres of the remainder of the Apex Site to Clark County at fair market value. Subsection 103(a) contemplates Secretarial compliance with section 203 of FLPMA, except that it (1) waives the necessity to amend the existing BLM land use plan, (2) grants advance Congressional approval for the Secretary to exceed the acreage limitations of that section if the Secretary finds that the transfer otherwise meets the criteria of section 203, and (3) waives the competitive bidding requirements of section 203 and authorizes the Secretary to transfer the remaining lands to the County at their appraised fair market value.

Subsection 103(b) authorizes the Secretary to transfer the remaining lands to the County pursuant to a land sale agreement between the Secretary and the County which provides for transfer of the lands to occur over a ten-year period at times and in amounts requested by the County.

Subsection 103(c) authorizes the Secretary to grant the Count such rights-of-way as may be necessary for the development of the lands transferred under subsection 103(a).

Section 103(d) makes it clear that, since the Secretary will still be exercising his discretionary authority under section 203 of FLPMA with respect to the transfer of the remaining lands at the Apex Site to the County, the requirements of NEPA and any other applicable laws will continue to apply to that transfer.

Section 103(e) withdraws the lands authorized for transfer

to the County from the operation of the public land laws until the authorized transfers are completed.

Section 104 reserves certain rights-of-way corridors for future use from the transfers provided for in section 102(a) and 103. Let me advise you that, as a result of negotiations with BLM and other parties interested in preserving such rights-of-way corridors, Kerr-McGee has reduced the size of the site to be transferred to it under section 102(a) so that none of the Kerr-McGee lands will be subject to that reservation.

Section 105 provides for the establishment of a special fund within the Treasury for the deposit of the proceeds of the sales under sections 102 and 103 and earmarks those receipts for the acquisition of environmentally sensitive lands in the State of Nevada which can be managed as part of an existing federal land management unit. In response to the views expressed by State, local and environmental organization officials, it directs the Secretary to consult with representatives of those entities in determining the lands to be acquired under this section.

Modifications Made by the
House Interior and Insular Affairs
Committee to the Companion Measure, H.R. 1485

The House Committee on Interior and Insular Affairs recently ordered reported an amendment in the nature of a substitute to H.R. 1485, the House companion to S. 624. The substitute makes a number of modifications to the original

bill, including the addition of a new Title II, which deals with the recovery by the United States for damages to certain National Park System resources. The remainder of my testimony will summarize the principal modifications made by the substitute to the portion of the bill dealing with the proposed transfer of the Kerr-McGee Site. These modifications are, in our opinion, improvements to the bill which the Energy and Natural Resources Committee might wish to consider as possible amendments to S. 624.

The provisions directing the transfer of the Kerr-McGee Site and the grant of associated rights-of-way are contained in section 103 of the House committee substitute. Section 103 directs that the transfer of the site be accomplished in two steps: 1) within 30 days of the bill's enactment the Secretary must offer a portion of the site, designated "Area 1", for sale to Clark County for resale to Kerr-McGee, and 2) upon completion of a survey of the remainder of the site, designated "Area 2", the Secretary must offer Area 2. The reason for dividing the site and directing separate conveyances is to expedite the transfer. The boundaries of the larger Area 1 were drawn according to the rectangular survey system and will not have to be surveyed in order to describe the lands for the purpose of conveyance, while the boundaries of Area 2 will require a rather time consuming metes and bounds survey for a description prior to the issuance of a patent.

As a condition to the transfer of the Kerr-McGee Site,

Section 106(a) of the substitute requires that Kerr-McGee and Clark County enter into an agreement with the Secretary to undertake the mitigation measures specified in the EA prepared by Dames & Moore. The original bill assumed the existence of such an agreement at the time of enactment and referred to it in section 101(j) but did not expressly condition the transfer of the site upon its execution.

The substitute also amends the rights-of-way provisions of the original bill. The original bill referred to a map contained in the EA showing the location of the proposed rights-of-way, while the committee substitute refers to a map entitled "Rights-of-Way and Proposed Access and Utility Locations" dated May 1989, a copy of which we have provided the subcommittee. The principal difference between the two maps is that the map referred to in the committee substitute depicts the location of the rights-of-way from their beginning or connection point to their end point, while the EA map shows their location only within the Apex Site.

The last modification I will mention is the one contained in section 103(c) of the committee substitute. The original bill provided that if Clark County did not purchase the Kerr-McGee Site within 60 days of the Secretary's offer, the lands within the site would become subject to the provisions of the bill authorizing the transfer of the remainder of the Apex Site. The committee substitute instead provides that the Secretary must offer the Kerr-McGee Site to Kerr-McGee

if the lands are not purchased by Clark County within 60 days of the Secretary's offer. If Kerr-McGee should fail to purchase the lands, the substitute provides that the lands would then become subject to the provisions authorizing the transfer of the remainder of the Apex Site.

That concludes my testimony, Mr. Chairman, and I will be pleased to attempt to answer any questions the members of the subcommittee may have.

Appendix A

DESERT TORTOISE IMPACT MITIGATION MEASURES

(1) Relocation of tortoises in facility development area (3 1/2 Sections) to suitable habitat in proposed Kerr-McGee buffer area (3 Sections);

(2) Accomplishment of tortoise relocation during winter hibernation period to minimize impact;

(3) Permanent dedication to tortoise protection and development prohibition within facility buffer area (3 Sections);

(4) Installation of tortoise-proof fencing around developed portion of Kerr-McGee site and access roadways to prevent conflicts between tortoise protection and facility operations;

(5) Installation of tortoise-permeable fencing on level areas around outer perimeter of facility buffer to allow tortoise movement and restrict public access that may conflict tortoise preservation;

(6) Worker education program to educate workers of the importance of tortoise preservation and measures to follow if tortoises are encountered in developed areas;

(7) Reduced speed limits on access roadways to minimize tortoise road kills;

(8) Prohibition of entry to facility buffer area except for routine security patrols and fence maintenance;

(9) Contribution to BLM for the purchase of radio-tracking equipment to be used to study the success of the tortoise relocation program;

(10) Utilization of a net-covered central trash collection facility during construction and operation to minimize and isolate raven attraction (ravens are believed to prey upon young tortoises); and

(11) Participation in the development of an offsite mitigation plan to establish a tortoise preserve in an area of identified high quality tortoise habitat presently threatened by other activities. Kerr-McGee's participation will involve financing the development of a County implementation plan describing the County's participation in a Desert Tortoise Land Acquisition and Offsite Mitigation Program. This implementation plan will provide a mechanism for the County's meaningful involvement in the accomplishment of BLM goals for tortoise preserve establishment by providing for the collection and use of funds to supplement funds that may be available from the federal government to establish a desert tortoise preserve in southern Nevada.

The CHAIRMAN. Thank you very much.
Mr. van Ee, please proceed.

STATEMENT OF JEFF van EE

Mr. VAN EE. Mr. Chairman and members of the subcommittee, my name is Jeff van Ee. I have lived in Las Vegas for 17 years. I have submitted a written statement that I assume will be included as part of the record, and I would like to summarize that statement and emphasize some points that were made earlier.

During the legislative process concerning this Apex land transfer, I have been involved from the very beginning. I have been representing a number of environmental groups. Today I am officially representing the Nevada Wildlife Federation.

Let me say that as the bill has evolved through the congressional process, it has gotten better and the groups that I represent support H.R. 1485, as amended. But as in so many processes, we still have some concerns with the environmental impacts.

I have outlined in my testimony some of these concerns. The primary concern is with the desert tortoise.

And the second environmental concerns affect the environmental impacts related with full development of this site which primarily are air quality impacts.

The third point that is made in the statement is the fact that loss of public lands in Nevada should be offset through the acquisition of private environmentally sensitive lands. As previous speakers have noted, 85 percent of Nevada is federally owned, and some people view that as a hindrance to the state, something that is a detriment. However, many people view our Federal lands in Nevada as a valuable asset. And when they are sold, we expect fair market value. But when they are sold, we also hope that something can come back to the state to mitigate for the environmental impacts that we have when those Federal lands are lost.

One of the problems with the desert tortoise is the fact that throughout the Southwest its habitat is being impacted. Populations are declining, and it turns out that in this area crucial desert tortoise habitat is involved. There has been recognition of that and sensitivity to it, and my hope is that some of the concerns that the environmental groups have remaining with the environmental assessment can be resolved.

I see this as an ongoing process in which we address those environmental impacts, and my feeling is that Clark County can best address those impacts, especially the cumulative impacts, rather than have the responsibilities divided up between a number of agencies, the BLM, Clark County and other agencies.

So, in summary, the environmental groups support H.R. 1485. It represents a compromise. Concerns still remain and we hope that those can continue to be worked out.

[The prepared statement of Mr. van Ee follows:]

TESTIMONY OF Jeff van Ee

BEFORE THE SENATE PUBLIC LANDS, NATIONAL PARKS AND FORESTS SUBCOMMITTEE

ON S. 624, A BILL TO PROVIDE FOR THE SALE OF PUBLIC LANDS

TO CLARK COUNTY, NEVADA FOR NATIONAL DEFENSE AND OTHER PURPOSES

June 8, 1989

Mr. Chairman and members of the subcommittee. My name is Jeff van Ee. I have lived in Las Vegas for 17 years. During that time I have been involved in a number of issues affecting our public lands.

Today, I offer my views on S. 624 - a bill authorizing the sale of public lands to Clark County. I have worked with Nevada environmental and sportsmen groups, such as the Sierra Club, Nevada Wildlife Federation, Red Rock Audubon Society, and Desert Tortoise Council on this bill. I have also worked with Clark County and Kerr-McGee. Today, I have been asked to formally represent the Nevada Wildlife Federation.

In testimony before the House Public Lands and Natural Parks Subcommittee on H.R. 1485, I stated what I believed were key issues for environmental groups:

1) Protection of the desert tortoise, a potentially endangered species, must be emphasized through the allocation of money for: rapid implementation of Rangewide Conservation plans, scientific studies, habitat acquisition and protection, and educational efforts.

2) Mitigation must be provided for the impacts of the Kerr-McGee facility on wildlife (i.e., the desert tortoise) and the environment with the mitigation measures being identified in an <u>adequate</u> Environmental Assessment and agreed upon prior to the enactment of this legislation.

3) Loss of public lands in Nevada should be offset through the acquisition of private, environmentally sensitive lands -

either directly by the Federal government, or indirectly through land exchanges by the private sector or public interest groups, such as the Nature Conservancy.

4) Compliance with the National Environmental Policy Act should be mandated through the requirement for a cumulative effects Environmental Impact Statement on lands that may be sold to Clark County during the prescribed ten-year period.

H.R. 1485 has been substantially changed from the bill that was initially introduced. I believe the amended bill goes a long way in satisfying the concerns of the environmental and wildlife interest groups; however, there are still some problems and concerns with the proposed legislation. The remainder of my testimony will focus on those areas in the expectation that this committee will be able to further examine several key areas. Those areas are: the environmental assessment that accompanies this legislation, the environmental impacts, and the proposed mitigation measures.

First, let me state for the record that the Nevada Wildlife Federation and all the other major environmental groups in Nevada support legislation to relocate dangerous production and storage of ammonium perchlorate away from the heavily populated area of Henderson, Nevada. There can be no compromises when public safety is involved. However, virtually every environmental group has voiced concerns that our traditional planning processes for the public lands and environmental impacts have been superseded by the legislative process. Given the purported national security and public safety interests associated with the proposed legislation, everyone seems to recognize that major delays cannot be tolerated in relocating and expanding facilities to produce ammonium perchlorate. I would hope that this legislation does not set a precedent for others to continue to bypass the more traditional methods of

acquiring public lands and reviewing environmental impacts.

The environmental assessment process and documentation used to support this legislation leave something to be desired for many of the environmental groups. I am including with this testimony comments from at least one of the environmental groups concerned with this legislation. As you can see, major concerns remain to be addressed by either Kerr-McGee, Clark County, the Bureau of Land Management, or all three of them together.

A major issue with the proposed legislation is the impact on the threatened desert tortoise. Crucial habitat areas have been identified in the Southwest; yet, habitat loss is occurring at unprecedented rates (particularly in Southern Nevada where urban expansion is rapid). Populations of desert tortoises are reported to be declining throughout the Southwest. Fortunately, increasing public interest in the tortoise may eventually help reverse the trends in tortoise and habitat loss. Just last Saturday, the Nevada Senate passed S.B. 422 - a bill to designate the desert tortoise as the state reptile. How unfortunate it would be if the impacts on the tortoise from this legislation were not adequately mitigated that the tortoise might eventually disappear from the wild.

Crucial desert tortoise habitat will either be lost or significantly impacted as a result of this legislation; however, there are steps that may be taken to reduce the impacts. Kerr-McGee has proposed several steps in their environmental assessment, and public agencies such as the Nevada Department of Wildlife and the Bureau of Land Management appear to be formulating further

mitigation measures. I wish to encourage one measure that has not been previously considered.

The Southern Nevada Zoological Park has proposed to: establish a new interpretive desert tortoise display, temporarily house displaced tortoises, survey areas and collect tortoises whose habitat is being encroached upon, and finally consider expanding the size of their proposed display and holding area at a later time. Given the difficulties and problems with present public agency efforts to protect the tortoise, the Southern Nevada Zoological Park may have an important role to play in the protection of the tortoise, particularly within the proposed Heavy Industry site at Apex. I encourage Kerr-McGee and the other principal parties to support and fund the proposal of the Zoological Park.

Long-term preservation of the tortoise in the wild cannot be assured unless stronger measures are taken by public land management agencies and departments of wildlife to protect existing crucial habitat and establish new areas. The Federation supports H.R. 1485 as reported by the House Interior Committee for those provisions related to the establishment of areas of critical environmental concern (ACEC's), funding of tortoise studies, and purchase of select private lands and grazing privileges.

The loss of public lands in Nevada for hunting, fishing and other recreational pursuits continues to concern the Federation. The Federation has consistently expressed its support for the acquisition of private, environmentally sensitive lands through either exchange, or purchase to

mitigate for the loss of public lands. The Federation supports language in H.R. 1485 to require the Secretary of Interior to report to Congress on the proceeds from public land sales in Nevada and the acquisition of select, environmentally-sensitive private properties in Nevada. The Federation endorses the previously provided (and attached) list of lands in Nevada as an example of how the impacts of the proposed Heavy Industry Site on public land outside of Las Vegas may be offset through the acquisition of private, environmentally sensitive lands.

In summary, S. 642 requires amendment to achieve the degree of compromise represented in H.R. 1485 between protection of the environment, enhancement of public safety, national defense needs and the desire of Las Vegas to expand its economic base. Concerns have been expressed over several environmental impacts, and there remains some doubt whether those impacts will be adequately addressed and mitigated. To date, the cooperation expressed by the principal parties affected by this legislation to resolve differences has been good, but more remains to be accomplished. I look forward to working with the Committee to resolve those differences for the benefit of the public and our environment.

SIERRA CLUB
Toiyabe Chapter — Nevada and Eastern California
P.O. Box 8096, Reno, Nevada 89507

May 23, 1989

To Whom it May Concern:

Representatives of the Las Vegas Group of the Sierra Club received the Final Environmental Assessment over the weekend of April 22, 1989. Our review of the Assessment indicates that several areas deserve additional attention.

Siting Considerations

On page 1-2 the statement is made that a buffer area of about 1,000 feet to one-half mile is needed around 3 sides of the facility throughout the life of the project. This buffer area seems small in light of the Pepcon explosion and the stated need of Kerr-McGee to relocate the production of ammonium perchlorate to more "isolated" areas.

The Sierra Club is pleased with Kerr-McGee's commitment to reduce visual impacts of the proposed facility by submitting " . . . grading, site design, and landscape plans to BLM for review prior to finalization."

Air Quality

As noted in Table 1-1: The Clark County Air Pollution Control Regulations are intended to prevent exceedances of ambient air quality standards." The development of the Apex area into a heavy industry area will likely lead to a significant degradation of air quality and not necessarily from criteria pollutants. This degradation remains of great concern to the Club because nearby parks (e.g. Valley of Fire) are likely to be impacted by a decrease in visibility.

As noted on page 3.3-4, " . . . stable atmospheric conditions, low mixing heights, and light winds common during nighttime and morning hours provide opportunities for contaminants to accumulate as emissions are produced." It is disappointing to read that "data for carbon monoxide, total hydrocarbons, sulfates and visibility are not available;" thus, it will be difficult to monitor trends in air quality within the airshed as development proceeds. The Club suggests that money be allocated to begin monitoring visibility in the area, particularly Valley of Fire State Park.

The Club is pleased to read that " . . . special attention should occur during permit reviews by the Nevada Board of Health Air Pollution Control Division." [page 3.3-10]

Desert Tortoise

Maps in the EA showing crucial desert tortoise habitat (Fig.3.5-1) also show substantial activities associated with the Kerr-McGee facility from the construction of an access road, a railroad line, and utility rights-of-way.

In addition, Fig. 3-6.2 shows a potential ORV course through crucial desert tortoise habitat. (The current course route should also be shown in the figure.) It would seem that more careful consideration could have been given to the siting of these items to minimize impacts on the desert tortoise.

When conflicts with existing mining claims were identified, the proposal was made that a cooperative agreement could be established between Kerr-McGee and the owners of the claims and an oil lease. (Table 1-1) Further, it was suggested that the impact of the Kerr-McGee facility could be " . . . reduced to insignificance by the fair compensations of the owners of valid claims". (Table 1-1) These two suggested actions on the part of Kerr-McGee to reduce impacts on mining claims should serve as a model for what may be done with impacts on desert tortoises. The Sierra Club believes that a cooperative agreement between Kerr-McGee, the County and the Bureau of Land Management and the Nevada Department of Wildlife is in the best interests of all parties who have an interest in the fate of the desert tortoise. A written agreement specifying the agreed upon mitigation measures for the tortoise would seem to be in the best interest of all parties. Further, the establishment of a financial fund to carry out those mitigation measures should be considered at the earliest possible date.

Unfortunately, the proposed mitigation measures for the tortoise do not seem to be adequate. Relocation of individuals to undisturbed areas sounds good in theory, but experience has shown that there are problems. Donation of radio-tracking gear to NDOW to allow study of tortoise relocation efforts is a worthy gesture; however, it is questionable whether NDOW has the resources to adequately use the radio tracking gear.

"Improvement of the quality of offsite habitat may include such considerations as vegetation composition and structure as well as levels of habitat disturbance (BLM, 1988)" [page 3.5-13] What does this mean?

It is stated on page 3.5-13, 14 that " . . . Kerr-McGee will finance the development of a Clark County offsite mitigation implementation plan. This plan will specify the determination of funds required and establish a mechanism for the County's collection of fees for Apex development rights (in addition to the land purchase cost), to provide adequate funding for the implementation of the off-site mitigation plan." This gesture by Kerr-McGee is commendable, but seems to fall short of the real need for monies to mitigate for the loss of crucial desert tortoise habitat. The payment to Clark County is for a task one would normally expect the County to do without compensation. Financial compensation by Summa Corporation for the impacts on desert tortoises of developing Husite seems to have established a precedent which would make the development of an "offsite mitigation implementation plan" at Apex an easier task.

Summary

The process involved in developing the Environmental Assessment and examining environmental impacts and alternatives concerns the Sierra Club. Scoping of the project and meetings with potentially affected or interested parties did not occur at the earlier stages of the proposed project. Adequate time to review and comment on various matters has not been provided; however, the Club does acknowledge that extenuating circumstances potentially affecting our

national security may have contributed to some of the problems that the Club has with the Environmental Assessment process. What cannot be excused, however, is the difficulty that we have in knowing who is responsible for receiving and addressing our comments. Because we cannot determine whether the BLM, County or Kerr-McGee are responsible for addressing our comments, we provide a copy of our comments to each of these organizations. Our hope is that our comments will be received as constructive criticism and that they will lead to an improvement in the supporting documentation for the relocation of Kerr-McGee and the establishment of a Heavy Industry site.

The Las Vegas Group of the Sierra Club hopes that our involvement will lead to a further reduction of the impacts of the proposed project on the environment. We continue to be willing to work with the interested parties in seeing that this objective is achieved.

Sincerely,

Dave Brickey
Conservation Chairman

3 June 1989

To Whom It May Concern:

I have reviewed the April 1989 version of the Final Environmental Assessment for the Apex proposal. Because I no longer hold the position of Board Member on the Desert Tortoise Council, I am providing these comments as an expert herpetologist. My review is limited to sections that pertain to the desert tortoise, and they are as follows:

Page 158.2/4-T1-1.4 (Table 1-1, under Biology) -- what are acceptable levels? By BLM's policy of "no net crucial habitat loss" these mitigating measures cannot be considered acceptable!

Page 158.2/4-T1-1.4 (Table 1-1, under Biology) -- what is meant by "individuals" and "individual exchange?"

Page 158.2/4-T1-1.5 (Table 1-1, under Biology) -- the description of impacts fails to point out violation of BLM policy on "no net crucial habitat loss."

Page 158.2/4-T1-1.5 (Table 1-1, under Biology) -- in the mitigation section, the description of an off-site plan seems confusing. Why does Clark County have to do an implementation plan to participate in establishment of an offsite tortoise preserve?

Page 158.2/4-T1-1.5 (Table 1-1, under Biology) -- where did the idea of a concrete box culvert come from? Do we have any information to show that these boxes will work?

Page 158.0/1-3.5-6, last para (Sensitive Wildlife Species) -- the location of the proposed Apex project is within a crucial area designated by the Desert Tortoise Council, which has been honored by the BLM.

Page 158.0/1-3.5-7, first para (Sensitive Wildlife Species) -- again, here it should be pointed out that BLM has a policy of "no net crucial habitat loss."

Page 158.0/1-3.5-7, second para (Sensitive Wildlife Species) -- describe category 3 species. These species are those that are no longer being actively considered for Federal listing under the Endangered Species Act.

Page 158.0/1-3.5-9, second para (Construction) -- the statement that "potential impacts can be reduced by implementing the onsite mitigation measures considered in Section 3.5.3, and are not considered significant" is false. The mitigating measures do not compensate for or replace lost crucial desert tortoise habitat associated with this project.

Page 158.0/1-3.5-9, last para (Construction) — as in the previous comment, on-site mitigation proposed in the EA does not adequately mitigate the loss of crucial desert tortoise habitat. Furthermore, an implementation plan does not, in itself, protect tortoise habitat.

Page 158.0/1-3.5-10 (Mitigation Measures) — the last word of the introduction probably should be insignificant, although loss of crucial desert tortoise habitat should be considered significant.

Page 158.0/1-3.5-11 and 12 (Mitigation Measures, #'s 1, 2 and 3) — is there any evidence that any of these proposed measures will work? I'm not aware of these being thoroughly tested. They should not be considered mitigating measures until their known to mitigate loss of habitat and individuals (e.g., we don't know if individuals released on other sites survive).

Page 158.0/1-3.5-13, first large para (Mitigation Measures) — what exactly will the Apex project contribute to this effort? Simply the Clark County mitigation implementation plan?

In summary, the EA presents some interesting but untested proposed mitigation, but still fails to adequately compensate for the loss of crucial desert tortoise habitat. The funding of Clark County to write a mitigation implementation plan does not compensate for this loss. Additionally, we currently do not have enough understanding of how to build or rehabilitate tortoise habitat to make an off-site program effective. For the tortoise to survive in southern Nevada we need to protect this animal's crucial habitats. Again, this is why the BLM Director established a "no net crucial habitat loss" policy.

Sincerely,

K. Bruce Jones

K. Bruce Jones
Herpetologist

DRAFT LIST OF ENVIRONMENTALLY SENSITIVE, PRIVATE PROPERTIES IN NEVADA

NATURE CONSERVANCY

The Nature Conservancy's Nevada Heritage program has established that Nevada ranks sixth in the nation in terms of its numbers of sensitive plant and animal species and rare ecosystems which need preservation. There are now 190 species of plants, animals, and invertebrates that are listed as either threatened, endangered, or candidates for listing.

1. Stillwater Wetlands Acquisition of water rights is needed to protect Stillwater and the endangered Cui-ui fish. Recent estiamtes are for $35 million to purchase 55,000 acre feet.

2. Soldier Meadow Ranch An historic property on the Applegate-Lassen trail near the Blackrock Desert is sought. Two endangered fish species are involved. Estimated cost is $1 million for 14,000 acres.

3. Lockes Ranch is home of the endangered Railroad Valley Springfield near Currant, Nevada. Estimated cost is $100,000 for the 500 acre site.

4. Moapa Farm is the only fal palm oasis left in the state. The Federally listed Endangered Moapa dace is on the 1200 acre site near Overton. The area is a prime recreation area close to Las Vegas. $2 million. The site is adjacent to the Moapa National Wildlife Refuge.

5. Steamboat Hotsprings Buckwheat is one of the rarest plants in Nevada and is located just south of Reno on a 120 acre site. The estimated cost is $1.2 million.

6. Burns Ranch is appproximately 1,400 acres and located in the Pahranagut Valley. Three unique spring fish species are located in one of Nevada's most outstanding riparian areas. (The roundtail Chub is Nevada's rarest.) The estimated cost is $700,000.

7. Hiko Springs is the water source for the Key Pitman Wildlife Management area and a re-introduction site for the Pahranagut Roundtailed Chub. A 300 acre site with full water rights is estimated to cost $300,000.

8. Manes Ranch would cost approximately $200,000 if it were available for sale. The site possessesthe extremely rare Pahrump Killifish.

9. Ely Paintbrush is among the rarest plant species in Nevada and exists on the George Swallow ranch near Ely, Nevada. The estimated cost for 200 acres is $100,000.

10. Ash Meadows Inholdings Numerous inholdings remain in Ash meadows where over 20 species of plants, animals and invertebrates occur and are found nowhere else on earth. Ash Meadows has 11 Federally endangered species! The estimated cost to acquire 1,500 acres is approximately $1 million.

11. Pine Forest Allotment The purchase of 12,000 AUM's to retire the entire Pine Forest Mountain range from grazing is estimated to cost $1.2 million.

OTHER PRIORITIES

1. $1.4 million is estimated for the purchase of inholdings in Lamoille Canyon in the Ruby mountains.

2. $ 3 million is estimated for purchase of wetlands and wildlife habitat in the Stillwater Wildlife Refuge.

3. Inholdings at Mt. Charleston in the Toiyabe National Forest near Las Vegas are still being sought.

4. Consolidation and acquisition of checkerboard lands along the Union Pacific railroad in northern Nevada are being sought.

5. Lake Tahoe inholdings continue to be a high priority.

The CHAIRMAN. Mr. van Ee, if only 13 to 15 percent of the land in Nevada is in private hands, does that not also mean that most of that land is fairly highly developed?

Mr. VAN EE. I would say that is true. Nevada is one of the most urbanized states in the country because of the cities of Las Vegas and Reno holding much of the population.

The CHAIRMAN. Well, where would you find the mitigation lands?

Mr. VAN EE. We have been seeking for many years through the appropriations process monies to buy up some of these fragile habitats that we have in Nevada. And, unfortunately, when it comes to the appropriations process in Congress, Nevada often ranks near the end of the list in terms of priorities.

But in my statement that I presented, the Nature Conservancy has provided a list of some of those lands and they note that Nevada has 190 species of plants, animals and invertebrates that are listed as either threatened, endangered or candidates for listing. So, there are sites that can be procured from willing sellers. The problem is what Nevada has to offer these people. When we give up our Federal lands and the money goes into the general treasury, it is very diffiult to get the money to buy those lands.

The CHAIRMAN. Are you suggesting that whatever the fair market value is, that the government take that money then and spend it on mitigation lands? Is that your suggestion?

Mr. VAN EE. Yes. That certainly makes it more palatable to us in Nevada, when we suffer the environmental impacts from some of these projects, to get something in return to offset those impacts.

The CHAIRMAN. Well, let me say that just as a general rule I certainly favor mitigation of projects that are going to have an adverse impact, but mitigation ought really to be used to offset damage that is being done. And in this case, I do not know whether any damage is being done that would require normally philosophically mitigation or whether it is just taking some money because you are losing a few thousand acres of land.

And I do not mean to say a few in a denigrating way. Yesterday one witness testified so what if the 1872 mining law has caused the Federal Government to sell off a state the size of Connecticut. One Congressman said that is not as big as the biggest county in my state.

Mr. VAN EE. Well, that is a very good question you posed. The Nevada Wildlife Federation is very concerned about the loss of Federal lands from two basic perspectives. One is from a recreational use, from a hunting use. Even though much of our land is federally owned, it is difficult to manage wildlife and hunt on lands that are claimed for mining. We have the Nevada Test Site that is off limits. Much of our air space in Nevada is being acquired for military purposes. So, when you look at access to the public lands for recreational use, we are losing.

And what is important about this piece of property is that it is close to a rapidly expanding urban area.

The other part of the answer is that we are suffering a loss of crucial desert tortoise habitat that has been identified in this area. And Bob Burford said in November of last year that it would be the BLM's policy to prevent such loss of crucial desert tortoise

habitat. While the desert tortoise is not presently an endangered species, it is primarily not an endangered species because the Fish and Wildlife Service does not have the money to get it listed that way. So, it is a threatened species, and we are all working hard to keep it off the endangered species list.

So, there are impacts with this, and some mitigation measures have been identified in the environmental assessment. And we expect that as time goes on, working with the county and working with Kerr-McGee, we can satisfy some of our concerns.

The CHAIRMAN. Mr. Cortez, are we talking about land that has a value in excess of $100 an acre?

Mr. CORTEZ. I would hate to speculate on that, Mr. Chairman. I like the price you indicated earlier. I think $2.25 is a good price for the land.

The CHAIRMAN. You think what?

Mr. CORTEZ. I think $2.25 per acre is a good price for the land, as indicated by yourself earlier.

I do not know at this point. We do not have any idea what the land is worth, and we hate to speculate on it. Obviously, as the land is improved, the cost of the land will go up.

The CHAIRMAN. Are there any comparable sales in the area of recent vintage?

Mr. CORTEZ. Not to my knowledge. There is a business on site that has been there. A gypsum has been there for several years. I do not recall what they paid for that land.

I am told it was around $2.50 an acre.

The CHAIRMAN. It sounds like a mining claim.

Well, you all testified well. Mr. van Ee you certainly have raised an interesting point, and in markup that will be considered. I cannot promise you the results will be to your liking. Maybe they will.

But I personally would like to know a little bit more about what the likely fair market value of that property is.

Thank you all very much for being with us.

Mr. Cortez, I might be remiss if I didn't tell you I think you have two of the finest Senators in the United States Senate.

Mr. CORTEZ. Thank you very much, Mr. Chairman. We concur.

The CHAIRMAN. Our next panel is Dr. Charles McGimsey, Director of the Arkansas Archeological Survey; Dr. Douglas Jones, Chairman of the De Soto Trail Commission from Tuscaloosa, Alabama; Robert L. Bendick, Jr., Director of Rhode Island Department of Environmental Management; Representative Richard Moore, State Representative from Boston, MA.

Charles, your name is first on my list, so why don't you commence?

STATEMENT OF DR. CHARLES R. McGIMSEY III, DIRECTOR, ARKANSAS ARCHEOLOGICAL SURVEY

Dr. MCGIMSEY. Thank you, Mr. Chairman. I want to express my appreciation for the opportunity to appear before you again and also to thank you very sincerely for you long-term and wide-ranging support for things archaeological, not only in Arkansas but nationwide, of which Manassas is only one example.

I am Dr. Charles R. McGimsey III, Director of the Arkansas Archeological Survey, the State agency charged with responsibility for Arkansas' archaeological heritage. In years past, I have had the honor of serving as the President of the Society for American Archeology and of the Society of Professional Archeologists.

I appreciate this opportunity to speak to you today and to strongly support S. 555, a bill to establish in the Department of the Interior the De Soto Expedition Trail Commission.

The De Soto expedition was the first European exploration of the Southeastern United States. The records of this expedition give us our first recorded glimpse of the rich, though not in the sense of gold and silver which the Spanish were seeking, cultures of the many and varied Native American cultures that occupied that area.

A thorough knowledge of these cultures in their pristine or pre-European state is vital to our understanding of the pre-European contact history of this country. This knowledge is also a critical piece in the jigsaw puzzle which represents our understanding and appreciation of human adaptation and development in a unique portion of the world. Archaeological investigations, supplemented by the all too brief but extraordinarily valuable De Soto records, will ultimately yield all we will ever know of this segment of human history.

The expedition itself is worthy of study for it is an extraordinary example of man's ability to venture into the unknown, adapt to that strange environment and for many, though not De Soto himself, to survive and record that experience.

Unfortunately, this first glimpse is almost the last we are to get of the unchanged Native American cultures in the Southeastern United States. The cultural disruption introduced, and to a disastrous degree, the virulence of European diseases unleashed, however unintentionally, by the expedition was disastrous in its effect. In Arkansas it has been estimated that within a few years of the expedition's passage, the native population had been reduced to one-fifth of its original number. All subsequent European reports are of this vastly reduced, in numbers and cultural diversity, population. That the Native American cultures later explorers reported were so vital and culturally rich is a tremendous tribute to these people and to the depth and strength of the human spirit.

It is altogether fitting that we study and commemorate this important chapter in world exploration and this Nation's history, and it is particularly fitting that we do so in this 450th anniversary of the expedition.

At the time of the 400th anniversary, Congress sponsored a similar commission which compiled all the then available information on the expedition and its route. They made excellent use of that information that was then available but in many areas, and particularly in Arkansas, the archaeological data base was sparse to nonexistent, so that they were reduced to depending on time and distance information and geographic correspondences as provided by the various accounts of the expedition.

In the intervening 50 years, our knowledge of the cultures in the Southeast as researched by archaeology is vastly improved. In Arkansas, for example, our inventory of all known prehistoric sites

has increased from the hundreds to over 20,000, some 354 of which date to around the mid-1500's. Careful review of this archaeological information has necessitated reevaluation of the probable route taken by the expedition. And the Arkansas record is particularly important, for the expedition spent fully half of its total time wandering through Arkansas. During these wanderings, they contacted nearly all Native American cultural groups then resident in the State.

We can never know with exactitude all the detailed particulars of this route, but its basic outline now seems firmly in hand. In Florida the first winter encampment at what is now Tallahassee is currently under intensive investigation.

The Parkin site in northeastern Arkansas serves as a comparable western anchor for De Soto's travels. This site, remarkably well preserved and conforming closely to Casqui as described in the De Soto journals, is now under development as an element in the Arkansas State Park System. An Arkansas Archeological Survey research site at Parkin can serve effectively as a center for active research on the whole De Soto period throughout Arkansas.

However, if we are to fully comprehend and truly benefit from this important chapter from our past, we must learn even more about what actually transpired and convey this more fully to the broadest possible public audience. It is my understanding that this is precisely what Senate Bill 555 is designed to accomplish.

I would also like to take this opportunity to make a case for Federal assistance specifically for development of the Parkin site.

As noted above, the site provides a secure anchor for the entire De Soto experience in Arkansas. The site has already been declared a national landmark because of its importance to an understanding of our Native American cultures in northeast Arkansas. Its identification as Casqui lends additional luster to its national significance. It is the site of the first Christian cross that was raised in Arkansas and the first baptisms in Arkansas.

The State, with important assistance from the Archeological Conservancy, now owns most of the Parkin site and is beginning to develop it as a State park. The Arkansas Archeological Survey plans to establish a research station at the site modeled after the successful archaeological program at Toltec Indian Mounds State Park near Little Rock. With Federal assistance, it would be possible to expand on these basic programs and make Parkin the center for research on De Soto in Arkansas, where he spent one-half of his entire journey. This essential research would be designed to identify and interpret to the public not only the route itself, but the significance of the expedition to the native peoples and this Nation's history.

Thank you.

The CHAIRMAN. Thank you, Dr. McGimsey.

Dr. Jones.

STATEMENT OF DR. DOUGLAS E. JONES, CHAIRMAN, De SOTO TRAIL COMMISSION

Dr. JONES. Mr. Chairman, I am Douglas Jones, Chairman of the De Soto Trail Commission and Director of the State Museum of

Natural History at the University of Alabama. I summarize here a formal statement submitted earlier.

The De Soto Trail Commission was formed in June 1987 by a group of professional persons interested in establishing a national De Soto trail. The Governor of each of the 10 Southeastern States through which De Soto traveled was invited to appoint two delegates to the commission. Nine of the governors have done so, and the tenth state participates on an informal basis. The Trail Commission has met regularly twice a year since its founding.

The primary concern of the commission has been to establish the route of the Spanish expedition led by Hernando De Soto followed in 1539–1543 when his army made the first European exploration of the Southeastern United States. In the 50 years after Columbus discovered the new world, several attempts were made to explore it. None successfully penetrated the interior of the country until the De Soto expedition which spent 4 years in travel between 3,000 and 4,000 miles through what now are the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. In the process, De Soto discovered the Mississippi River where he died of a fever in 1542.

The expedition failed in its attempts to find a way over land through Texas to Mexico. The survivors returned to Louisiana and Arkansas, built boats, descended the Mississippi River and followed the coast westward to safety at Tampico, Mexico, 1,000 miles away.

To retrace the route of the expedition today, 450 years after the fact, is a difficult task. Written accounts of the expedition provide some information, and it is from these descriptions of the lands and the Indian tribes visited by De Soto that most efforts at reconstructing the trail are drawn.

In addition, the De Soto Trail Commission has had the benefit of data from hundreds of archaeological excavations undertaken in these 10 States in the past 50 years. Also, we have had the advice and assistance of dozens of archaeologists, many of whom have devoted major portions of their careers to this problem. This information was not available to previous investigators. We believe that it has enabled us to provide a more exact identification of the route of De Soto than any work done previously.

Our commission has worked primarily with the route proposed by Dr. Charles Hudson of the University of Georgia. After archaeologists in each of the states had studied the portion of the route that traversed their state, the De Soto Trail Commission has been able to identify a route through eight of the states and expects that routes for the other two will be successfully established during the coming year.

The route we have set thus far extends in an unbroken line from Tampa Bay, Florida to Columbus, MS. In addition, the route has also been agreed upon for Arkansas. Mississippi and Louisiana are expected to settle their versions of the route in the next year. The 2,000-mile distance from Tampa Bay to Columbus, Mississippi was unanimously adopted by the De Soto Trail Commission at its meeting in February 1989 as the appropriate route for a national historic trail. We hope shortly to be able to add to that a second portion covering the other two States.

We are now at a point in our proceedings where it would be desirable to have a national De Soto Commission so that common trail marking procedures would be used in all of the states and a single trail could be established commemorating this great adventure in our early history. At its meeting on May 26, 1989, the De Soto Trail Commission unanimously supported S. 555 which Hon. Senator Bob Graham introduced to accomplish this task.

Earlier efforts to persuade the National Park Service to establish such a trail were not successful primarily because there was a feeling that the route of the expedition could not be established with adequate specificity. We believe that our efforts which have received unanimous endorsement by our commission show that this is now possible. I attach to these remarks a copy of a map showing the route anticipated by our work. We believe that now is the time for Federal action to be taken to reap the fruits of what we have done. We believe that S. 555 will do that.

It was pointed out recently by one of our commission members that it will be the year 2055 before the Southeastern United States shall have been under American control as long as it was under the flag of Spain. We hope that the honorable Members of the Congress will agree that this is an important event to be commemorated.

Thank you, sir.

[The prepared statement of Dr. Jones follows:]

De Soto Trail Commission

Alabama • Arkansas • Florida • Georgia • Louisiana • Mississippi
North Carolina • South Carolina • Tennessee • Texas

HEARINGS ON SENATE BILL 555. A BILL TO ESTABLISH IN THE DEPARTMENT OF THE INTERIOR THE DE SOTO EXPEDITION TRAIL COMMISSION, AND FOR OTHER PURPOSES.

REMARKS OF DOUGLAS E. JONES, Ph.D.
CHAIRMAN OF THE DE SOTO TRAIL COMMISSION

BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND NATIONAL FORESTS, THE HONORABLE SENATOR DALE BUMPERS, ARKANSAS, PRESIDING, JUNE 8, 1989.

Mr Chairman, I am Douglas Jones, Chairman of the De Soto Trail Commission and Director of the State Museum of Natural History at the University of Alabama, Tuscaloosa, Alabama. The De Soto Trail Commission was formed in June of 1987 by a group of persons interested in establishing a national De Soto Trail. The governor of each of the ten states in the region through which De Soto traveled was invited to appoint two delegates to the Commission. Nine of the governors have done so, and the tenth state participates on an informal basis. The Trail Commission has met regularly twice a year since its founding.

The primary concern of the Commission has been to establish the route that the Spanish expedition led by Hernando de Soto followed in 1539-43 when his army of 700 men, 300 horses and a herd of pigs made the first European exploration of the southeast portion of the United States. In the fifty years after Columbus discovered the New World, several attempts were made to explore it. None successfully penetrated the interior of the United States until the De Soto Expedition. De Soto and his men spent four years and traveled between three and four thousand miles through what was then called "La Florida" but is now known as the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas. In the process, De Soto discovered the Mississippi River, where he died of a fever in 1541. The expedition failed in its attempt to find a way overland through Texas to Mexico. The survivors returned to Louisiana and Arkansas, built boats, descended the Mississippi, and followed the coast westward to safety at Tampico, Mexico a thousand miles away.

P.O. Box 5897 • Tuscaloosa, AL 35486 • (205) 348-7550

To retrace the route of the expedition today, 450 years after its heroic exploration, is a difficult task. Written accounts of the expedition provide some information, and it is from these descriptions of the land and the Indian tribes visited by De Soto that most efforts at reconstructing the trail are drawn.

In addition, the De Soto Trail Commission has had the benefit of data from hundreds of archaelogical excavations undertaken in these ten states in the past fifty years. Also, we have had the advantage of advice and assistance from dozens of archaeologists--many of whom have devoted major portions of their careers to this problem. This information was not available to previous De Soto Commissions. We believe it has enabled us to provide a more exact identification of the route of De Soto than any work done previously.

In our procedure we have worked primarily with the route proposed by Dr Charles Hudson of the University of Georgia. After archaeolgists in each of the states had studied the portion of the Hudson route that traversed their state, the De Soto Trail Commission has been able to identify a route through eight of the states and expects that routes for the other two will be successfully established during the coming year. The route we have set thus far extends in an unbroken line from Tampa Bay, Florida to Columbus, Mississippi. In addition, the route has also been agreed upon for Arkansas. Mississippi and Louisiana are expected to settle their versions of the route in the next year. The 2000 miles from Tampa Bay to Columbus, Mississippi was unanimously adopted by the Commission at its meeting on February the third, 1989, as the appropriate route for a National Historic Trail. We hope shortly to be able to add to that a second portion covering the other two states.

We have now reached a point in our proceedings where it would be desirable to have a National De Soto Commission so that common trail marking procedures would be used in all of the states and a single trail could be established celebrating this great adventure in our early history. At its meeting on March 26, 1989 the De Soto Trail Commission unanimously supported Senate Bill 555 which the Honorable Senator Bob Graham introduced to accomplish this task. Earlier efforts to persuade the National Park Service to establish such a trail were not successful, primarily because there was a feeling that the trail of the expedition could not be established with sufficient specificity. We believe that our efforts, which have received the unanimous endorsement of our Commission, show

that that is now possible. I attach to these remarks a copy of a map showing the route anticipated by our work. We believe that it is now time for Federal action to be taken to reap the fruits of what we have done. We believe that Senate Bill 555 will do that. We hope that the Honorable Members of the Congress will agree.

THE SIGNIFICANCE OF DE SOTO

Hernando de Soto's expedition has great national importance for a number of reasons. It was the first European expedition to explore beyond the coastal margins of North America. To many Americans it represents their most direct link to the process of discovery started by Columbus, which brought the Old World together with the New. It represents the important period of Spanish dominance in North America, before Jamestown, and before the Pilgrims and Plymouth Rock. In 1992 the entire world will celebrate the 500th anniversary of the discovery of the New World. But whereas Columbus never set foot on North American soil, De Soto did. De Soto is America's most natural symbol for its earliest written history, for our own Age of Conquest during which columns of armored knights on horseback, foot soldiers with crossbows, and caravans of native bearers moved and sometimes fought their way through an unknown frontier.

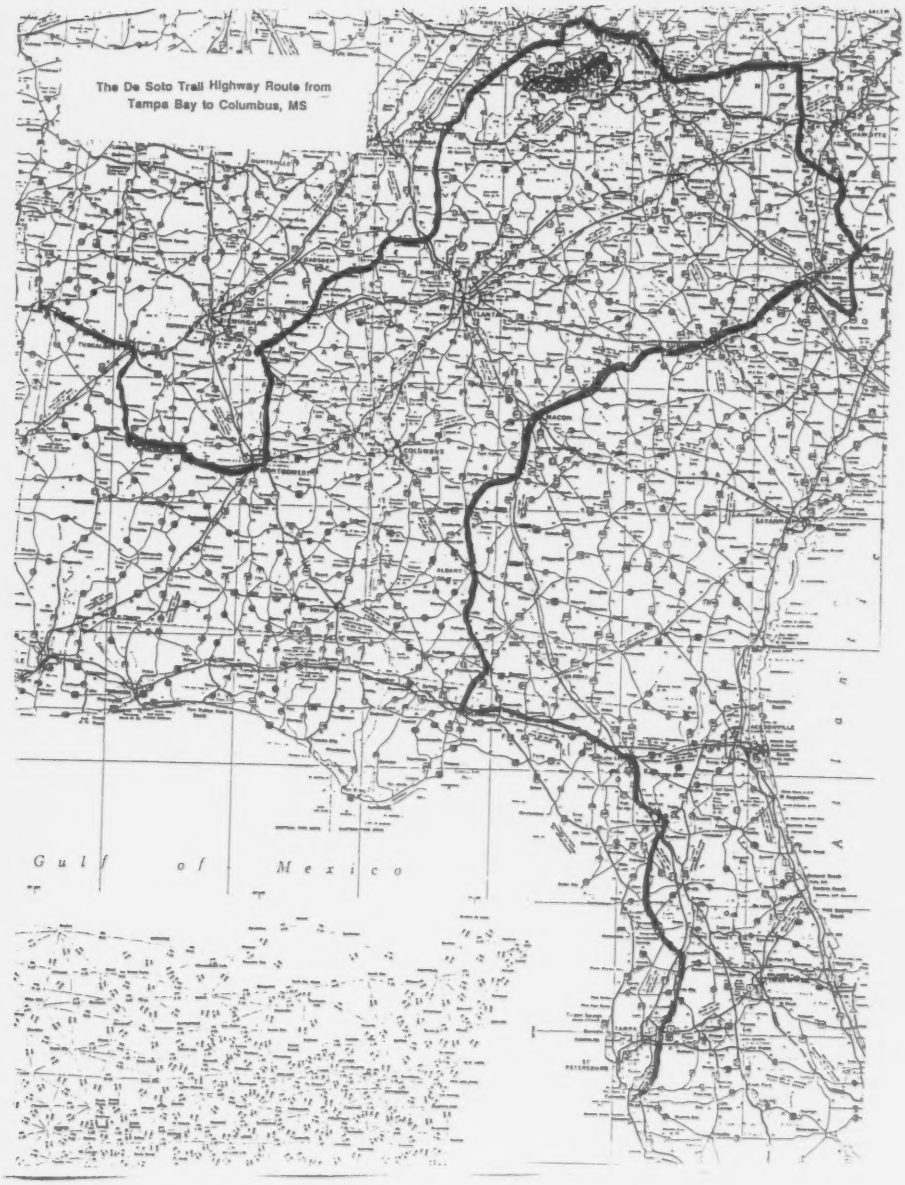
It has recently been pointed out that it will be the year 2055 before the southeastern United States will have been under American control as long as it was under the flag of Spain. For all that, there is precious little in our school curricula, historic parks, monuments, or trails which tell of the exploits of the conquistadors. Their era has been called the lost century of American history, with good reason. Many of us remember that De Soto discovered the Mississippi River or that Ponce de Leon went in search of the Fountain of Youth, but what is there to remind us of the Battle of Mabila, the greatest battle between Europeans and Indians ever fought on this continent? Vacationers and schoolchildren cannot visit any fort or battlefield from these early expeditions, because they have been erased by time and are now lost.

We should not neglect a crucial part of our history merely because it left few physical traces. De Soto's expedition and others like it failed to accomplish their goals. They failed to find gold or any other wealth, and many of them died in their attempts to conquer. But they did encounter the powerful Mississippian Indian chiefdoms, whose people resisted the Spaniards only to fall victim later to epidemic diseases introduced from Europe. The chronicles of

the expeditions give us our only eyewitness descriptions of the highest Native cultures ever to develop in North America. The story of these Native mound-building cultures and their resistance to the would-be conquerors needs to be told as well.

De Soto and his men did gain information about the geography, resources, and Natives of the North American continent which was put to use by later European colonists. In doing so they laid the groundwork for the colonial enterprises we know so much better -- St. Augustine, Jamestown, Charleston, Savannah, New Orleans, Mobile. In every instance the Spanish navigators and conquistadors were there first.

How can we commemorate them with so little knowledge of their historic sites? I suggest to you that a National De Soto Trail is the one appropriate course, to be provided with interpretive signs and educational exhibits along the way from Florida to Texas. There is still some disagreement about exactly where De Soto's path lies, and that will continue. Let us promote research on that question to contribute to our store of knowledge and perhaps to discover some of the historic sites that have been lost. For the trail marking, though, what we have in mind is not necessarily a a precise tracing of that route but rather a set of marked highways and exhibits in the general areas passed through by De Soto's army, dedicated to telling an important story, one that so far we have neglected.


The De Soto Trail Highway Route from
Tampa Bay to Columbus, MS
Gulf of Mexico

The Importance of Parkin

The Parkin Site was occupied for several hundred years between around A.D. 1350 and 1550. By the end of that period the town was fortified, with a palisade and protective ditch around it. Perhaps as many as 1000 people lived within this protected area, with their corn fields outside the ditch. This is exactly the kind of large native town described by De Soto's chroniclers in northeast Arkansas.

There has been and continues to be a rich scholarly debate as to the exact route taken by De Soto through Arkansas. The route long accepted had De Soto entering Arkansas near Helena and leaving down the Ouachita River after wandering less than a year. The route now gaining increasing acceptance among scholars has De Soto crossing into Arkansas just south of Memphis and departing down the Mississippi River from somewhere south of Helena, after being in the state for two years. Overwhelming archeological evidence favors this more northern route. A key site in this archeological evidence is the Indian town called *Casqui* by De Soto, which archeologists believe is the large site within the city limits of Parkin. *Casqui* was visited by De Soto in the summer of 1541. His followers erected the first Christian cross in Arkansas atop the ceremonial mound, an event witnessed by thousands of Indians.

The site at Parkin with its ceremonial mound has been extraordinarily well preserved over the centuries. It is one of only five National Historic Landmarks in Arkansas. Parkin is ideally situated to serve as a focal point for learning about and appreciating a fascinating period of Arkansas' history.

The Significance of De Soto

In 1541-1543 De Soto and his expedition of soldiers, clerics, and craftsmen were the first Europeans to enter the territory of what is now Arkansas. The four accounts of that two year journey around the state give us our first and only written glimpses of the original Indian cultures in their natural states.

Unfortunately for the native inhabitants, De Soto's men brought diseases (such as smallpox and measles) to which the Indians had no immunity. The results were devastating. Whole communities, perhaps whole tribes and nearly entire cultures, were wiped out. The native cultures visited by later Europeans, while they had regained a strong viable existence, had been irretrievably changed. No other single event in our state's history, except perhaps the Civil War, had such a dramatic effect on Arkansas and its people.

Arkansas State Parks

Parkin Mound Archeological State Park

The Parkin site was authorized as a State Park in 1967. Acquisition of the site and some surrounding land by the Archeological Conservancy, a nonprofit organization which purchases archeological sites to assure protection, is now 98% complete, and most of the land has been turned over to the state. Complete acquisition is expected shortly.

The program for the Park would be modeled on the successful Toltec Mounds Archeological State Park where, under a cooperative agreement with the Arkansas Archeological Survey, a long term program of public interpretation and scientific research is being carried out.

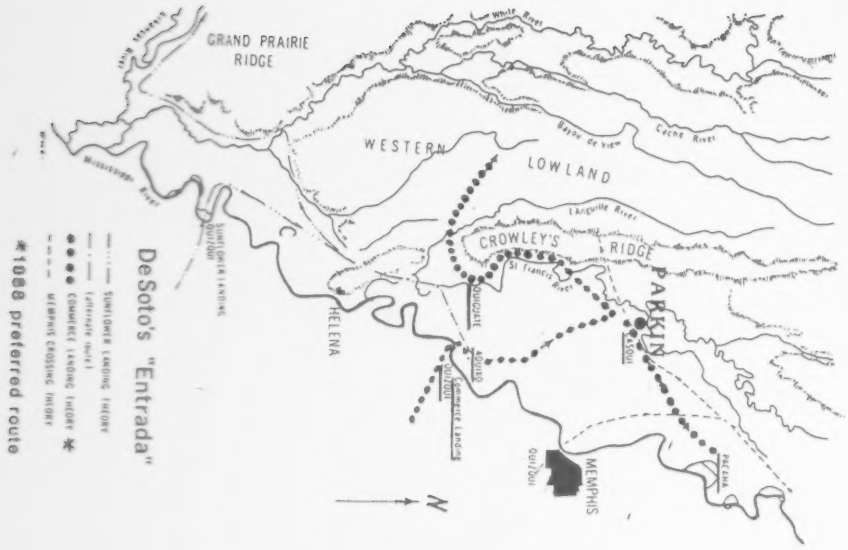
The State Park at Parkin will have outstanding tourist appeal.

Arkansas Archeological Survey Research Station at Parkin

An appropriation is being requested to establish a Survey Research Station at Parkin similar to that maintained at Toltec Mounds Archeological State Park to provide an essential complement to the operation of the State Park.

The visitor will have an opportunity to see all aspects of archeological research as it is being carried out. In addition, the site, the excavations, and the exhibits will enrich the interpretive program and will provide a unique experience for children and adults alike in learning about Arkansas Indians at the time of the first European contact.

PRESERVING THE PAST FOR THE FUTURE



Spanish raising the cross on the mound at *Casqui*, 1541. (Parkin Mound Archeological State Park)

The CHAIRMAN. Thank you very much, Dr. Jones.
Mr. Bendick.

STATEMENT OF ROBERT L. BENDICK, JR., DIRECTOR, RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Mr. BENDICK. Thank you, Mr. Chairman.

My name is Robert Bendick, and for the past 7 years I have been the chief environmental official of the State of Rhode Island. I am also vice chairman of the Blackstone Valley National Heritage Corridor Commission.

I am here on behalf of Gov. Edward D. DiPrete and the people of Rhode Island to express the strongest possible support for S. 830, a bill to amend the Blackstone Valley National Heritage Corridor legislation.

First I want to thank Senator Pell and the other members of the Rhode Island and Massachusetts congressional delegations for introducing this legislation and for their eloquent support of its passage here today and at the time of introduction. Senator Pell and Senator Chafee have shown a deep and continuing interest in the idea of preserving the historic character of the Blackstone Valley. That interest I believe is based not just on a desire to serve their constituents, but also on an understanding of the national significance of the history and natural history of this remarkable place.

I hope I can convey to you the sense that this river, the mills and mill villages clustered around its falls, the farm fields, the canals, the ruins of times past, and the memories of its hardworking people are an important part of the soul of our country which must be saved and explained for generations to come.

The Blackstone Valley National Heritage Corridor was designated by Congress because of the legitimate national significance of this resource. The original legislation set up a corridor commission and charged it with creating a series of plans to preserve that heritage. The required studies and plans are now largely complete. After hundreds of hours of work and participation by professionals and citizens, these documents tell us that, in fact, the valley has valuable historic resources which, while threatened, can be successfully preserved and interpreted by joint Federal-State-local effort.

Given this, the amendments to the corridor legislation proposed in S. 830 are intended to give the corridor commission the ability to act as catalysts to encourage states, municipalities, nonprofit organizations, businesses and individuals to carry out projects to preserve the historic character of the valley and to explain its history in a dramatic and understandable way to residents and visitors. The money is enough only to encourage action by others, not to establish a large scale Federal presence. In this way it would create a true partnership among everyone concerned to achieve the goals of the corridor.

Why should you vote to provide the funds for this effort in this time of so many competing national needs?

First, this valley contains the country's first and most important industrial sites. If the Federal Government invests money in any effort to interpret the history of the Industrial Revolution, it should be here.

Second, with completion of the corridor plan this summer, if some implementation funds are not available for fiscal year 1990, the entire effort will be jeopardized.

Third, unlike many proposed park sites with Federal involvement, the people of this place welcome Federal assistance and participation.

Fourth, the Blackstone Valley is a living resource. People still live and work in and around the communities and buildings which need to be saved and restored. A small, well-planned Federal investment can involve 500,000 people in preserving and conveying an important American story to their fellow Americans.

And finally, the history of the Blackstone Valley can explain to all of us the ingredients of economic success and failure which are so important if we are to compete in today's world.

Finally, beyond these specific reasons for support of additional funding for the Blackstone Valley National Heritage Corridor, I believe it is important that we spend more, no matter what the competing interests, on projects such as this which protect and interpret the many facets of the American experience.

I have worked at the grassroots level of government for 20 years and have participated in more than 1,000 public meetings. I watch people carefully and I am fearful these days. I see these days that amid the chain stores and shopping strips, video games and southern California style condominiums, we are losing something incredibly important, our sense of identity as a people, as a nation. Our America to me is a kind of heirloom quilt of experiences which, though sewn together by many hands, has a unifying pattern. It is this common knowledge of the good and bad things which have happened to us which brings us together, which allows us to bridge our differences and to sacrifice for each other in times of hardship.

If we do not act now to preserve and explain the Blackstone Valleys of this country, the places which were turning points in our history, we threaten the common bonds which make us a nation founded on the premise that out of many can come one.

[The prepared statement of Mr. Bendick follows:]

TESTIMONY

OF

ROBERT L. BENDICK, JR.

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

ON

S 830

A BILL TO AMEND PUBLIC LAW 99-647,

ESTABLISHING THE

BLACKSTONE VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

BEFORE

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

SUBCOMMITTEE ON PUBLIC LANDS

June 8, 1989

My name is Robert L. Bendick, Jr. and for the past seven years I have been the chief environmental official of the State of Rhode Island. I am also vice-chairman of the Blackstone Valley National Heritage Corridor Commission. I am here on behalf of Governor Edward D. DiPrete and the people of Rhode Island to express the strongest possible support for S 830, a bill to amend the Blackstone Valley National Heritage Corridor legislation enacted in 1987.

First, I want to thank Senator Pell and the other members of the Rhode Island and Massachusetts Congressional delegations for introducing this legislation and for their eloquent support of its passage here today and at the time of introduction. Senator Pell and Senator Chafee have shown a deep and continuing interest in the idea of preserving the historic character of the Blackstone Valley. That interest, I believe, is based not just on a desire to serve their constituents, but also on an understanding of the national significance of the history and natural history of this remarkable place.

I offer this testimony from two perspectives - in my role as a government professional and as a 19 year resident of the City of Woonsocket, Rhode Island, an old and colorful mill town on the banks of the Blackstone. I hope my familiarity with the valley will allow me to convey to you the sense that this river, the mills and mill villages clustered around its falls, the farm fields, the canals, the ruins of times past, and the

memories of its hardworking people are an important part of the soul of our country which must be saved and explained for generations to come.

The Blackstone Valley National Heritage Corridor was designated by Congress "for the purpose of preserving and interpreting the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways and structures within the Blackstone River Valley in the States of Massachusetts and Rhode Island".

The original legislation set up a Corridor Commission and charged it with creating a plan to:

1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

2) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the Corridor;

3) develop an historic interpretation plan to interpret the history of the valley;

4) contain policies for land use management which consider and detail the application of appropriate land and water management techniques, including but not limited to local zoning, use of easements and development of

intergovernmental cooperative agreements, so as to protect the Corridor's historical, cultural, scenic and natural resources and enhance water quality of the Blackstone River in a manner consistent with supporting economic revitalization efforts;

5) contain a coordination and consistency component which details the way in which local, State and Federal programs may best be coordinated to promote the purposes of this Act; and

6) contain a program for State and local government implementation of the plan.

The required studies and plans are now largely complete. After hundreds of hours of work and participation by professionals and citizens these documents tell us that:

1. There are, in fact,thousands of still existing structures in the valley which represent the entire history of the American Industrial Revolution and the complex economic and social relationships of the people who lived and worked in the valley towns.
2. Among these is the Slater Mill, America's first industrial plant and one of the nation's most important historic structures. Slater Mill is owned by a non-profit organization which faces severe problems in maintaining this site.

3. There are many locations along the river where the fabric of buildings and landscape are sufficiently intact that they can be used to explain the history of life in and around the early mills.
4. These resources are threatened daily by demolition and new construction which could erase the character of the past before people realize what is being lost. Land use and planning controls and econimic incentives can save these resources.
5. There is a rich human history within the valley which involves the ingredients of both economic success and industrial stagnation. This history can be preserved with timely research and discussion with valley residents.
6. The natural value of the Blackstone River is being restored by more than $100,000,000 in water quality protection measures. The restored river and its banks can connect historic sites to provide a continuous recreational and educational experience.
7. The people of the valley and the States of Rhode Island and Massachusetts are strongly in favor of the Heritage Corridor Project as a way of preserving things which they believe are important to them and to the country as a whole. Citizens, businesses, State and local governments are already investing heavily in actions to preserve and explain the Corridor's resources, but to be effective these efforts must be carefully coordinated. Local and State funds are insufficient to accomplish what must be done.

Given all this,the amendments to the Corridor Legislation proposed in S 830 are intended to give the Corridor Commission the ability to act as catalyst to encourage states, municipalities, non-profit organizations, businesses and individuals to carry out projects to preserve the historic character of the valley and to explain its history in a dramatic and understandable way to residents and visitors. The money is enough only to encourage action by others, not to establish a large scale federal presence. In this way it would create a true partnership among everyone concerned to achieve the goals of the Corridor.

Why should you vote to provide the funds for this effort in this time of so many competing national needs?

- This valley contains the country's first and most important industrial sites. If the Federal Government invests money in any effort to interpret the history of the Industrial Revolution, it should be here.
- With completion of the Corridor Plan this summer, if some implementation funds are not available for FY 1990, the entire effort will be jeopardized.
- Unlike many proposed park sites with Federal involvement, the people of this place welcome Federal assistance and participation.
- The Blackstone Valley is a living resource. People still live and work in and around the communities and buildings

which need to be saved and restored. A small, well planned Federal investment can involve 500,000 people in preserving and conveying an important American story to their fellow Americans.

- The history of the Blackstone can explain to all of us the ingredients of economic success and failure which are so important if we are to compete in today's world.

Finally, beyond these specific reasons for support of additional funding for the Blackstone Valley National Heritage Corridor, I believe it is important that we spend more, no matter what the competing interests, on projects such as this which protect and interpret the many facets of the American experience. I have worked at the grassroots level of government for 20 years and have participated in more than 1,000 public meetings. I watch people carefully and I am fearful these days, I see, these days, that amid the chain stores and shopping strips, video games and southern California-style condominiums we are losing something incredibly important - our sense of identity as a people, as a nation. Our America, to me, is a kind of heirloom quilt of experiences, which, though sewn together by many hands, has a unifying pattern. It is this common knowledge of the good and bad things which have happened to us which brings us together, which allows us to bridge our differences, and to sacrifice for each other in times of hardship. If we do not act now to preserve and explain the Blackstone Valleys of this country, the places which were turning points in our history, we threaten the common bonds which make us a nation founded on the premise that out of many, can come one.

RLB/ms

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The CHAIRMAN. Thank you very much, Mr. Bendick.
Representative Moore?

STATEMENT OF RICHARD T. MOORE, CHAIRMAN, BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION, MASSACHUSETTS STATE REPRESENTATIVE

Mr. MOORE. Mr. Chairman, my name is Richard T. Moore, Chairman of the Blackstone River Valley National Heritage Corridor Commission. I am also a seven term member of the Massachusetts House of Representatives, a formal local elected official in the Blackstone Valley, and a lifelong valley resident.

Thank you for the opportunity to testify in support of S. 830. I would especially like to thank Senators Kennedy and Kerry and Representatives Early and Atkins of Massachusetts of the Massachusetts delegation and our neighboring delegation from the State of Rhode Island for their great work on behalf of the people of the Blackstone Valley.

I will be summarizing my statement that I have provided in more detail to the members of the committee.

As you know, the bill now before the committee seeks an authorization for the Federal share of the funding needed to implement the plan required by our enabling legislation. Senate 830 would begin to allow the Blackstone River Valley National Heritage Corridor Commission to lead by example in the effort to preserve and protect this nationally significant region.

Economic development is coming to valley. We support and want to encourage that development. But despite good intentions, 20 towns and cities in two states will not be able to coordinate planning and action to protect the integrity of valleywide resources.

The commission will be able to assist the communities to set up local historical districts, land use planning and with zoning ordinances to protect the valley character if the authorization for our commission operations is increased to the level authorized for the most recently established national heritage corridor.

The commission would also provide technical assistance in historic interpretation. These needs have been strongly identified by citizens and valley leaders during our planning process and will be part of our plan when all the writing is completed this month. Our technical assistance strategy is to demonstrate what can be accomplished as the means to encourage others to attempt similar solutions.

Senate 830 would also allow the commission to lead by example through an incentive program to include matching grants. The commission's plan will identify key properties whose protection is vital to the preservation of the valley's character. Our grants will be based on the twin criteria of significance and threat. The State historic preservations officers of the two States will also be involved as an additional safeguard to apply our limited funding to the maximum advantage in the national interest.

If we mean to be serious about protecting nationally significant resources, the Federal Government must be a partner. It must also demonstrate leadership if local, state and private entities are to be challenged to contribute their scarce revenues to the protection of

our national heritage. This concept I would emphasize was envisioned by the sponsors of Public Law 99-647 as fundamental to the establishment of the national heritage corridor as an important role for the commission to play.

I want to stress that both Massachusetts and Rhode Island have more than met their responsibility to provide funding for the national heritage corridor. In both fiscal years 1988 and 1989, the Federal Government provided $250,000 to the commission. Last year Rhode Island provided $135,000 and Massachusetts $245,000 for the corridor, more than the 50-50 match required by Public Law 99-647. This year Rhode Island provided $1.8 million, and Massachusetts added a half million, or nearly a 10-to-1 State match.

Even with the limited resources facing Massachusetts and Rhode Island, both governors have pledged to provide the support necessary to at least match the increased amount requested through S. 830 if approved by the Congress, and I provided a letter from Governor Dukakis of Massachusetts to that effect.

Consequently, passage of Senate 830 and subsequent appropriation of funds will leverage increased State support above that which is currently required for the heritage corridor.

I also want to emphasize that the corridor has been the catalyst for encouraging volunteers to support heritage corridor goals, and our plans are to increase that volunteer participation. We have documented—the National Heritage Corridor Commission members, the 19 members alone, have donated in excess of 6,000 hours of service. Additionally, local governments are channeling local funding to support corridor goals. We need to encourage this cooperative effort and to keep the momentum for this public-private, bistate partnership moving forward.

We have already formulated an aggressive work plan to begin to implement the vision expressed in our Blackstone River Valley Cultural Heritage and Land Use Management Plan which is just now being completed. While we recognize that the plan is not in final printed form, there is substantial agreement regarding the action agenda that would be funded by the requested increase in the commission's authorization, an effort which in itself is a direct result of our planning process.

To be successful, we need a start that is at least as rapid as the development pressures now beginning to overwhelm the valley. We need to lead by example and through enthusiasm. We need real, live progress to be believed. We need your help.

Thank you.

[The prepared statement of Mr. Moore follows:]

Testimony of Richard T. Moore in support of S.830, a bill to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission, before the Senate Committee on Energy and Natural Resources.

Mr. Chairman, my name is Richard T. Moore, Chairman of the Blackstone River Valley National Heritage Corridor Commission I am also a seven term member of the Massachusetts House of Representatives, a former local elected official in the Blackstone Valley, and a lifelong Valley resident. I am also representing Governor Michael S. Dukakis of Massachusetts who has provided a letter expressing his strong endorsement of the Heritage Corridor and Senate Bill 830. Thank you, Mr. Chairman, for the opportunity to testify in support of S.830. I want to especially thank Senators Kennedy and Kerry and Representative Joseph D. Early and Chester G. Atkins of the Massachusetts delegation for their great work on behalf of the people and national heritage of the Blackstone Valley. I would be remiss if I failed to acknowledge, as well, the leadership of the delegation from our sister state of Rhode Island; one of many successful partnerships needed if the national heritage corridor idea is to succeed. We would like to enlist this Committee in making the corridor a success. This Committee has shown the understanding, imagination, and sensitivity crucial to the

establishment of innovative American conservation areas -- areas such as Jean Lafitte National Historical Park, and Cape Cod National Seashore -- which requires a federal role within an unusual management framework needed to protect resources of clear national significance. The Blackstone River Valley National Heritage Corridor needs your vision now.

My commission vice chairman, Robert L. Bendick, has outlined in his testimony today the original legislation establishing the Blackstone River Valley National Heritage Corridor. As you know, the bill now before the Committee, S.830, seeks an authorization for the federal share of the funding needed to implement the plan required by our enabling legislation. I want to explain to the Committee why we need this authorization now, and what can be accomplished in the national interest with the resources received for the Blackstone Valley.

Mr. Chairman, this issue turns on two points. The first is the national significance of the resources of the Blackstone Valley. The second is the appropriate management framework for these resources.

The Congress recognized the significance of the Blackstone Valley when it authorized the national heritage corridor in 1986. As the National Park Service report states, the Blackstone Valley is the cradle of the American Industrial Revolution. In 1790, as George Washington assumed the Presidency, the nation's first cotton spinning mill was established on the banks of the Blackstone river. By 1844, 94 mills were working on the

Blackstone -- soon to be known as "America's Hardest Working River" -- a process which led to a major transformation in the nation's economy and society. The National Park Service report points out, the Blackstone Valley was the first such industrial region in the country. It represents the first widespread use of water power for industry in the United States, and was the birthplace of the "Rhode Island System" of manufacturing, and during this time was the most ethnically and religiously diverse area of New England. The U.S. Census of 1880 stated, "It would be hard in fact to find another stream in the country so completely utilized."

Mr. Chairman, I invite you to come to the Valley as the guest of the Commission. You will see for yourself that the resources, which began the most fundamental change in America's society and economy, are still there. You can see the mills and mill villages, which span 150 years of our history. You can see the rural farms -- many as old as the early 17th Century -- which surrounded the villages and still add special character to the Valley. You can see the history of transportation from the earliest Indian trails, to colonial roads, to the Blackstone Canal which was constructed during the classic period of America's canal boom, to the railroad which consolidated the Industrial Revolution. It is worth noting that the Providence and Worcester Railroad has the longest independent history of any railroad in the United States. You will see a delightful greenbelt, with its recreational opportunity still undeveloped, along most of the Blackstone River and Canal. You will also see,

Mr. Chairman, evidence of the depression that swept the Valley as the textile industry moved south. The recent economic recovery in the Blackstone Valley is also visible. It will be clear to you that this recovery is needed, but also that, in an area encompassing 20 towns and cities, in two states, careful and comprehensive planning and enlightened action will be necessary to protect the nationally significant resources of the Valley.

What is the appropriate management framework and what is the federal role? In addition to its national significance, the other distinguishing characteristic of the Blackstone Valley is that it remains a place where people live and work. It contains none of the large federal landholdings that simplify management and control in most of the nation's national parklands. Without the ability to manage or regulate, how can the national interest be expressed through the Blackstone Valley Commission?

It can do it, Mr. Chairman, by example.

S. 830 would begin to allow the Commission to do just that. Economic development is coming to the Valley. We support and want to encourage that development. But despite good intentions, 20 towns and cities in two states will not be able to coordinate planning and action to protect the integrity of valley-wide resources. The Commission will be able to assist the communities to set up local historical districts, land use zoning, and ordinances to protect the Valley character by increasing the authorization for Commission operations to the level recently authorized for the Delaware and Lehigh Navigation Canal National

Heritage Corridor. The Commission would also provide technical assistance in interpretation. An enthusiasm for the history and culture of the Valley is as important for the people who live there as for tourists who may visit. These needs have been strongly identified by citizens and Valley leaders during our planning process, and will be part of our plan when all the writing is completed in one month. Our technical assistance strategy is to demonstrate what can be accomplished as the means to encourage others to attempt similar solutions. We know many corridor towns and entrepreneurs want to protect the Valley's character, but they may lack the specialized expertise required to do the job. The Commission would expect to hire land use and interpretive planners to work closely with corridor towns and developers.

S.830 would also allow the Commission to lead by example through an incentive program to include matching grants. As you know Mr. Chairman, this Committee would have included similar authority in its original bill to establish the corridor and commission. Under the proposed legislation, the Commission would require matching funding for historic structures, restoration grants, and for grants to obtain interests to protect land. In November of last year, the Commission developed a policy (to be released in the upcoming plan) for the review of such grants. The Commission's planning committee has also directed the staff to consider open space/greenbelt areas in this policy utilizing similar criteria. We will provide one additional opportunity for public review of our policy prior to finalizing our plan. I will

provide this policy to the Committee for its records and review. Our approach is similar to the National Park Service's land protection planning. The Commission's plan will identify key properties whose protection is vital to the preservation of the Valley's character. Our grants will be based on the twin criteria of significance and threat. The State Historic Preservation Officers will also be involved as an additional safeguard to apply our limited funding to maximum advantage in the national interest. A great deal of adaptive use, and development of historic properties, has begun in the valley ... not all of it planned wisely. Practical people learn by experience. The Commission must sponsor highly-visible demonstrations of good projects to win practical people over.

Although no matching grants would be required for interpretive exhibits and for cultural and educational programs, these programs, too, would be targeted to leverage the greatest possible contribution from local and state governments and from the private sector. We believe, however, it would be unwise to require matches for interpretation and educational programs; surely no program areas are more appropriate for federal technical assistance. For interpretive exhibits, the Commission has endorsed the efforts of the Commonwealth of Massachusetts, the Chamber of Commerce of Woonsocket, Rhode Island, and the Old Slater Mill Association to develop visitor centers in, respectively, the Voss Farm in Uxbridge, Massachusetts, the historic Falls Yarn Mill in Woonsocket, and at the flagship historical resource of the Valley, Slater Mill in Pawtucket. No

federal dollars would be used for restoration and construction; the Commission would offer to design and develop museum exhibits in all three buildings as inducements to complete these much-needed visitor centers. The Chamber effort in Woonsocket is typical. The theme of this visitor center will be the history of labor and immigration. The restoration of the building would cost approximately $3.5 million. The contribution of the interpretive exhibit would be approximately $250,000. The Commission also believes it is essential to provide wayside and traveling exhibits which are consistent in both theme and design as a visible means of tying together the Valley's history and resources.

Similarly, the educational and cultural program grants would be designed to encourage private organizations and local governments to invest their money in a manner consistent with the objectives of the Commission's plan. Our planning committee has adopted the objective of co-sponsoring historical research, oral histories, volunteer interpreters, special events, and interpretive tours. Funds for these programs would help us encourage widespread citizen action for the Valley's resources, and even broader awareness of the significance of those resources.

Mr. Chairman, you know that outreach programs have, in theory, many advantages. The federal government sponsors partnerships, which encourage the maximum citizen involvement and state, local, and private sector contribution, while avoiding federal responsibilities for management and administration. S. 830 has

all these characteristics. As you know the federal government, through the Commission, would assume no land management responsibilities.

Yet it is also important to be realistic. Especially if we mean to be serious about protecting nationally significant resources.

The federal government must be a partner. It must also demonstrate leadership if local, state, and private entities are to be challenged to contribute their scarce revenues to the protection of our national heritage. When national parks are established in places where there is sufficient public lands to form a manageable unit, the National Park Service instantly has the ability to protect those lands from adverse uses. In the much more complicated land ownership and use pattern of the Blackstone Valley, whose story is as decisive to the American character as many national historical parks, the Commission has no power to compel consistency with Congressional objectives. What we have -- potentially -- is the ability to provide incentives to rally private, state, and local efforts to achieve a national purpose. The current and previous Administrations have strongly urged the federal government to relinquish the role of total responsibility for reasons of budgetary constraint and citizen engagement. But to relinquish all responsibility will make promising partnerships, such as the Blackstone Valley, appear to be cynical evasions to average citizens who are concerned that we may be going, as a nation, toward a rootless and valueless future.

I would like to address one more issue before I close, Mr. Chairman. I understand that the fact the Commission has not yet delivered its completed plan is being used as a justification to oppose this authorization request. The best way to address this issue is head-on. For many years the people of the Blackstone Valley worked together to see that appropriate national recognition and support of its resources would be forthcoming from the Congress. Remember that only recently have blue-collar areas been so recognized. Their efforts were rebuffed several times, but these people endured with distinction, and the Congress of the United States eventually agreed with them. On November 10, 1986 enabling legislation was passed authorizing a Commission term of five years, and requiring a one year planning process. Mr. Chairman, for whatever reason, the Secretary was unable to appoint the Commissioners until February 10, 1988. During that entire time no progress visible to the people of the valley was made, and understandably some began to wonder if the designation of the national heritage corridor lacked serious purpose. The Commission was not called into its first session until May of 1988, and really did not become organized until July of that year. Most of our time since then has been planning ... a crucial step, but one lacking in tangibles for those who had been holding their breath for many years.

We have already formulated an aggressive work plan to begin to implement the vision expressed in our Blackstone River Valley Cultural Heritage and Land Use Management Plan, which is just now being completed. While we recognize that the plan is not in

final printed form, there is substantial agreement regarding the action agenda that would be funded by the requested increase in the Commission's authorization. By the beginning of the next fiscal year on October 1st, the plan will have been completed for three months, and it will be imperative for public confidence for the commission to have sufficient resources and the ability to respond to valley growth to make significant strides in implementation.

It is vital that the Congress act now to support the increased authorization levels since, once approved, we must still seek the actual appropriations consistent with this new authorization. It would, indeed, be unfortunate, if we had to wait until October, 1991 to begin to seriously implement a plan that, for all intents, is now ready.

It is easy to predict our immediate future if we are unable to immediately begin to implement the objectives of the national heritage corridor. Our plan will be completed in one month. The National Park Service will require several months to print and distribute the plan to the Secretary and the Committees with jurisdiction; if we are fortunate, you and I will have printed copies in the early Fall, or approximately at the end of the third year of our Commission's five year term. We will then await the review of the Department, and it is unclear how long that will take. If the Secretary asks for changes, those will take time to make, as will re-submittal. At that time the Secretary has 45 days to approve or disapprove the plan. The

enabling Act is silent about the process if the Secretary disapproves a second time. It is easy to imagine the Commission completing its first term with no sufficient progress adequate for this Committee to evaluate the merits of a legislative extension.

I believe, without exaggeration, that the next ten years will see the obliteration or protection of the key resources in the Blackstone Valley. The process of suburbanization from Boston, from Providence, and from Worcester is proceeding just that rapidly. There are no bad guys here. There are just no reasonable and comprehensive protections. Our Commission has engaged with you in a complicated process to protect the nationally significant character of the Blackstone Valley. To be successful, we need a start at least as rapid as the development pressures now beginning to overwhelm the Valley. We need to lead by example and through enthusiasm. We need real, live progress to be believed. We need enough of a start to be able to demonstrate thematic consistency along the entire length of our 46-mile national heritage corridor. We need your help to hit the ground running.

Mr. Chairman, that completes my testimony. I am happy to answer any questions.

The CHAIRMAN. Thank you very much, Representative Moore. Incidentally I have received a letter from your Governor, Governor Dukakis, which I will insert in the record, also strongly supporting this legislation.

[The letter referred to follows:]

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133

MICHAEL S. DUKAKIS
GOVERNOR

June 6, 1989

The Honorable Dale Bumpers
Committee on Energy and Natural Resources
DSOB 364
Washington, D.C. 20510

Dear Senator Bumpers,

I am writing to express my strong support for Senate Bill 830. Public Law 99-647 established the Blackstone River Valley Heritage Corridor because of the unique and significant historic and cultural resources found within the 50 mile strip of land between Worcester, Massachusetts and Providence, Rhode Island. The Valley was the cradle for the Industrial Revolution. Today, it stands poised to participate in the next wave of industrial development. Protecting the important resources from the past while moving into the future is the greatest challenge facing the Corridor. Senate Bill 830 provides the financial resources needed to meet that challenge.

During the past year, the Blackstone River and Canal Heritage Corridor Commission has done an excellent job in preparing a plan for the historic Blackstone Valley Corridor. The plan, which will be completed and submitted to Congress later this summer, identifies the important historic, natural and cultural resources found in the Valley and presents strategies for their protection, interpretation and restoration. The grant funds identified in Senate Bill 830 will help the Commission implement these strategies.

The Corridor Commission is also undertaking many new initiatives to make the Valley's precious resources more accessible and understandable to the general public. But much needs to be done to complete the work of the Commission. The increase in operating funds found in Senate Bill 830 will allow the research on the Valley's history to move forward. Historical interpretation programs, recreational tours and special events celebrating the Valley's history and its contribution to America will also occur.

Senate Bill 830 provides the resources to make the Blackstone Valley's history come alive for all citizens of the United States. I hope you will join me in support for this important piece of legislation.

Sincerely,

Michael S. Dukakis
Governor

The CHAIRMAN. Mr. Patten, you didn't testify on this. If you would, just stand where you are. If you know, what is the Parks Department's position on this legislation?

Mr. PATTEN. Basically, the administration's position is in opposition. The feeling is that the proposed amendments would change the purpose of the commission from an advisory cooperative group to one of a granting organization. That was the basic reason for the opposition.

The CHAIRMAN. You have an objection to us funding by grant on an ongoing basis this commission. Is that it?

Mr. PATTEN. No, not funding the commission for its operation, no opposition to that. The opposition is for over a three year period the $2.7 million which the commission proposes to use for grants. That is the portion that we oppose, yes.

The CHAIRMAN. So, in other words, we fund, for example, the Natural Heritage Commission, the National Historic Preservation Trust, the National Endowment for the Humanities, and we allow them to give grants, but here we are going to be giving grants to the commission who, in turn, will turn around give grants to various communities along the Blackstone River and so on. Is that it?

Mr. PATTEN. That is what is proposed, yes.

The CHAIRMAN. And that is what the Parks Service objects to?

Mr. PATTEN. That's correct.

The CHAIRMAN. They have asked for an increase for the commission from $250,000, which is what we gave them this year and I think last year. They have asked that be increased to $300,000. Does the Parks Service have any objection to that?

Mr. PATTEN. I do not believe we have dealt with that specifically in the testimony I was prepared to give. I can say that $350,000 is the level that we have afforded similar commissions.

The CHAIRMAN. I stand corrected. For the record, it is $350,000. They are asking for a $100,000 increase.

Mr. PATTEN. Yes, a $100,000 increase. That is correct.

[The prepared statement of Mr. Patten follows:]

STATEMENT OF GERALD D. PATTEN, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S.830, A BILL TO AMEND PUBLIC LAW 99-647, ESTABLISHING THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

June 8, 1989

Mr. Chairman, I appreciate this opportunity to provide your Subcommittee with testimony on S.830, a bill to amend Public Law 99-647, establishing Blackstone River Valley National Heritage Corridor.

Mr. Chairman, we oppose S.830. The effect of the bill would be to convert the Blackstone River Valley National Heritage Corridor Commission from a planning and advisory body to a grant making organization, and authorize appropriations for a new grant program. In light of competing National Park Service priorities and the constrained fiscal climate, and the example that would be set for similar coordinating commissions elsewhere, the Administration cannot support such legislation.

The National Heritage Corridor and its 19-member Commission were established by Public Law 99-647, approved November 10, 1986. The Commission was directed to prepare a plan for the Corridor and submit it to the Governors of Massachusetts and Rhode Island and the Secretary of the Interior within 1 year after the Commission conducts its first meeting. The Secretary and the Governors were given 90 days to approve the plan.

The Corridor Commission held its first meeting in May of 1988. In September 1988 the Commission began its Cultural Heritage and Land Management Plan to coordinate existing State plans and "present a unified historic preservation and interpretation plan for the Corridor." The plan is substantially complete and is expected in mid-June.

The proposed legislation would amend Public Law 99-647 by increasing the authorization for general operations of the Blackstone National Heritage Corridor (NHC) from $250,000 to $350,000 for Fiscal years 1990-92, and by authorizing an appropriations ceiling of $2.7 million for a new resource protection and

interpretation grants program to be administered by the Blackstone River Valley National Heritage Corridor Commission.

On November 10, 1986, Congress established the Blackstone River Valley National Heritage Corridor to preserve and interpret the Valley's nationally significant resources. To achieve this goal, the Corridor Commission has been assigned the task of building a partnership between Federal, State and local governments to create a "management framework" for shared responsibilities. Following completion and approval of its plan for the Corridor, the Commission is instructed by the enabling act to give priority to actions that assist the States of Rhode Island and Massachusetts in:

1. Preserving and interpreting the valley's historic resources;
2. Completing State and local parks in the Corridor; and
3. Supporting public and private economic revitalization consistent with the Corridor goals.

The original act anticipated that this assistance would be accomplished without Federal funds.

The Blackstone River flows 46 miles between Worcester, Massachusetts and Providence, Rhode Island, and powered the creation of the American Industrial Revolution. America's first cotton spinning mill was established on its banks in 1790; by 1844, 94 mills were working on the Blackstone -- known as "America's Hardest Working River" -- and led to a major transformation in the nation's economy and society.

The Blackstone River Valley National Heritage Corridor includes more than 45 historic districts, 160 properties either on or eligible for the National Register of Historic Places, and approximately 5,000 historic buildings, information compiled in recently completed surveys of the resources.

The Blackstone Valley was the first such industrial region in the country, and represents the first wide-spread use of water power for industry in the United

States. It was the birthplace of the "Rhode Island System" of manufacturing: family-owned factories employing a labor pool of families, as opposed to the Waltham System at Lowell and elsewhere which were joint-stock companies mainly employing young women. It also was the most ethnically and religiously diverse area of New England at the time. Each mill spawned its own highly paternalistic village, where housing, schools, churches and even recreation were provided by the mill owner. Much of this heritage is still visible today.

At current funding levels, the Commission has been able to employ two staff, and develop a plan as required by the statute.

Mr. Chairman we look forward to reviewing the plan prepared by the Commission. However, we cannot support the fundamental revision in the Commission's role under S.830. The intent of the original legislation was to provide an umbrella structure to insure a coordinated effort by the State, local and private entities to preserve the Corridor's historic resources, not Federal grants. We continue to strongly support this approach.

This concludes my prepared remarks. I will be pleased to respond to any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Patten.

Gentlemen, you have sat through the hearing. You know we have asked virtually all the questions this morning that the subcommittee feels that we need answered, and if we run across in the record over the next few days omissions and oversights, we will submit questions to you in writing and ask you to promptly respond to them.

Thank you all very much for coming with us this morning.

We will now stand adjourned.

[Whereupon, at 11:32 a.m., the hearing was adjourned.]

23-706 - 89 - 7

APPENDIXES

APPENDIX I

Responses to Additional Questions

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

JUN 14 1989

IN REPLY REFER TO:

1750(140)

Honorable Dale Bumpers
Chairman, Subcommitteeon Public Lands,
National Parks and Forest
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510-6150

Dear Chairman:

This is in response to your June 13, 1989 letter enclosing two questions to be answered in writing for inclusion in the record of the hearing on S. 624, a bill to provide for the sale of certain Federal lands to Clark County, Nevada, for National Defense and other purposes.

The question submitted by Senator Malcolm Wallop asked:

> In light of the U.S. Supreme Court's recent decisions in Robertson v. Methow Valley Citizens Council and Marsh v. Oregon Natural Resources Council, do you still think that an Environmental Impact Study will be required on the sale of the entire 20,840 acre tract?

We have been advised by the Solicitor's office that the two decisions referred to in the question merely stated that in doing an environmental analysis it is not necessary to do a "worst case" analysis.

We still believe that an environmental assessment, and if appropriate an environmental impact statement, is necessary for the approximately 17,000 acres in the Apex site. We believe the environmental assessment done by Dames and Moore for the approximately 3,800 acres in the "Ker - McGee" site is adequate and that no further study is necessary on that site.

The second question asked:

> Please provide me with detailed information regarding the nature, extent, and status of any mining claims located within the 20,840 acre "Apex" tract. How will these claims be affected by the enactment of this legislation?

We enclose herewith a list of all mining claims of record on the Apex site. Any conveyance under S. 624 would be subject to valid existing rights.

I trust this information is helpful.

Sincerely,

Robert J. Burford

Director

Enclosure

Claims with 1988 assessment documents filed:

T. 18 S., R. 63 E.,

Sec. 3,	NMC12518 Placer
	NMC12521 Placer
Sec. 4,	NMC12516 Placer
	NMC12517 Placer
	NMC12520 Placer
Sec. 9,	NMC12519 Placer
	NMC12522 Placer
	NMC12523 Placer
	NMC12524 Placer
Sec. 14,	NMC29638 Placer
	NMC29658 Millsite
	NMC31304 Millsite
	NMC31305 Millsite
	NMC52531 Millsite
	NMC52532 Millsite
	NMC52533 Millsite
	NMC52534 Millsite
	NMC377817 Placer
	NMC377818 Placer
	NMC377819 Placer
	NMC377820 Placer
	NMC377821 Placer
	NMC377822 Placer
Sec. 22,	NMC29636 Placer
	NMC29656 Millsite
	NMC29657 Millsite
	NMC273731 Placer
	NMC273732 Placer

Sec. 23,	NMC29631 Millsite
	NMC29637 Placer
	NMC52519 Millsite
	NMC52520 Millsite
	NMC52521 Millsite
	NMC52522 Millsite
	NMC52523 Millsite
	NMC52524 Millsite
	NMC52525 Millsite
	NMC52526 Millsite
	NMC52527 Millsite
	NMC52528 Millsite
	NMC52529 Millsite
	NMC52530 Millsite
	NMC273726 Placer
	NMC273727 Placer
	NMC273728 Placer
	NMC273729 Placer
	NMC273730 Placer
Sec. 26,	NMC29624 Millsite
	NMC29625 Millsite
	NMC29626 Millsite
	NMC29627 Millsite
	NMC29628 Millsite
	NMC29629 Millsite
	NMC29630 Millsite
	NMC29632 Placer
	NMC29633 Placer
	NMC29635 Placer
	NMC29644 Millsite
	NMC29645 Millsite
	NMC29646 Millsite
	NMC29647 Millsite
	NMC29648 Millsite
	NMC29649 Millsite
	NMC29650 Millsite
	NMC29651 Millsite
	NMC29652 Millsite
	NMC29653 Millsite
	NMC29654 Millsite
	NMC29655 Millsite
	NMC377814 Placer
	NMC377815 Placer
	NMC377816 Placer
Sec. 27,	NMC29635 Placer
	NMC273733 Placer
	NMC273734 Placer

Sec. 34,	NMC364876 Placer
	NMC364877 Placer
	NMC364878 Placer
	NMC364879 Placer
	NMC364880 Placer
	NMC364881 Placer
	NMC364882 Placer
	NMC364883 Placer
	NMC364884 Placer
	NMC364885 Placer
	NMC395231 Millsite
	NMC395232 Millsite
	NMC395233 Millsite
	NMC395234 Millsite
	NMC395235 Millsite
	NMC395237 Millsite
	NMC395238 Millsite
	NMC395239 Millsite
	NMC395240 Millsite
	NMC395241 Millsite
	NMC395242 Millsite
	NMC395243 Millsite
Sec. 35,	NMC364886 Placer
	NMC364887 Placer
	NMC384681 Millsite
	NMC384682 Millsite
	NMC395236 Millsite

T. 19 S., R. 63 E.,

Sec. 3,	NMC52511 Millsite
	NMC52512 Millsite
	NMC52513 Millsite
	NMC52514 Millsite
	NMC52515 Millsite
	NMC52516 Millsite
	NMC52517 Millsite
	NMC509510 Millsite
	NMC509511 Millsite
	NMC509512 Millsite
	NMC509513 Millsite
	NMC509514 Millsite
	NMC509515 Millsite
	NMC509516 Millsite
	NMC509517 Millsite
	NMC509518 Millsite
	NMC509519 Millsite
Sec. 4,	NMC52518 Millsite
	NMC144871 Lode
Sec. 5,	NMC144872 Lode
	NMC144873 Lode
	NMC144874 Lode
	NMC144875 Lode

Sec. 6,	NMC146060 Lode
Sec. 7,	NMC146058 Lode
	NMC146059 Lode
	NMC146060 Lode
Sec. 8,	NMC142750 Lode
	NMC142751 Lode
	NMC142752 Lode
	NMC142753 Lode
	NMC144875 Lode
	NMC144876 Lode
	NMC144877 Lode
	NMC144878 Lode
	NMC144879 Lode
Sec. 9,	NMC29661 Placer
	NMC29662 Placer
	NMC29663 Placer
	NMC144871 Lode

T. 18 S., R. 64 E.,

Sec. 18,	NMC512842 Placer
	NMC512843 Placer
	NMC512844 Placer
	NMC512845 Placer
	NMC512846 Placer
	NMC512847 Placer
	NMC512848 Placer
	NMC512850 Placer

Claims still of record without 1988 assessment documents filed:

T. 18 S., R. 63 E.,

Sec. 13,	NMC91056 Lode
	NMC91057 Lode
	NMC91058 Lode
	NMC91059 Lode
	NMC91060 Lode
Sec. 26,	NMC301104 Placer
Sec. 32,	NMC301105 Placer
Sec. 34,	NMC382458 Placer

T. 19 S., R. 63 E.,

Sec. 3,	NMC455460 Millsite
	NMC455461 Millsite
	NMC455462 Millsite
	NMC455463 Millsite
	NMC455464 Millsite
Sec. 4,	NMC301102 Placer
	NMC301103 Placer

T. 18 S., R. 64 E.,

Sec. 18,	NMC91027 Lode
	NMC91028 Lode
	NMC91029 Lode
	NMC91030 Lode
	NMC91031 Lode
	NMC91034 Lode
	NMC91035 Lode
	NMC91036 Lode
	NMC91037 Lode
	NMC91038 Lode
	NMC91039 Lode
	NMC91040 Lode
	NMC91041 Lode
	NMC91042 Lode
	NMC91043 Lode
	NMC91044 Lode
	NMC91045 Lode
	NMC91046 Lode
	NMC91047 Lode
	NMC91048 Lode
	NMC91049 Lode
Sec. 19,	NMC91050 Lode
	NMC91051 Lode
	NMC91052 Lode
	NMC91053 Lode
	NMC91054 Lode
	NMC91055 Lode
	NMC463712 Placer
	NMC463713 Placer

Oil and gas lease No. N-41896 was terminated on July 1, 1987.

United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

IN REPLY REFER TO:
L58(180)

Honorable Dale Bumpers
Chairman, Subcommittee on Public Lands,
National Parks and Forests
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Senator Bumpers:

In response to your letter of June 13, enclosed are our answers to the questions on S.555, the De Soto Trail Commission bill, and S.830, the bill to amend the Blackstone River Valley National Heritage Corridor Act.

Sincerely,

John G. Kerr Jr.

James M. Ridenour
Director

Enclosure

QUESTIONS SUBMITTED BY SENATOR WALLOP

S.555

Question. Section 102 of the bill deals with functions of the Commission. The Commission, through the Institute, may issue loans and grants.

Can the Institute deduct administrative costs for processing loans and grants?

Answer: The legislation does not specifically authorize or prohibit the Institute from using loan or grant funds for administrative costs. It is our belief that, unless Congress indicated in the legislative history accompanying an appropriation that administrative costs could be borne from the appropriation, such costs would have to be borne from other funds.

Question. Does the legislative language allow the Institute to deny a loan or grant to anyone of whom it does not approve?

Answer: The language does not specifically provide grounds for denial of loans or grants. We believe that the Institute could deny a loan or grant to anyone, so long as the grounds for such denial were reasonable.

Question. Does the Institute have the ability to select favored clients?

Answer: No. Grants are made on the basis of applications, and all grants must be made through fair criteria.

Question. Can the Commission refuse to make a grant? And if so, under what circumstances?

Answer: Yes, if there are no funds for that purpose, the applicant is unable to meet the criteria applied by the Commission, or the Commission concludes that a grant is not in the public interest.

Question. The Commission may authorize loans including interest. Who are these loans repaid to? Does the general Treasury receive any funds?

Answer: The language of S.555 does not specifically designate a repayment payee. Absent language to the contrary, we assume repayments would be deposited in the general fund of the Treasury.

Question. Do the States have the ability to accomplish the functions and purposes of this legislation without Federal assistance?

Answer: Yes. Section 2 of the bill states as its purpose the establishment of (1) a commemorative, highway route, (2) a comprehensive plan for administration of the route, and (3) a research institute. In 1987, ten States initiated the formation of a commission to promote research, establish a commemorative highway route, and identify the expedition route. By 1988, the De Soto Trail Commission had been formally established by resolution of a majority of States along the route. All States except Georgia have approved the resolution and

appointed members to serve on the Commission. Florida has completed the marking of a commemorative trail and Alabama has identified a trail to be marked by 1990. Moreover, the existing State-level Commission has been very active in promoting archeological research and conducting related activities in the southeast.

Question. Does the Commission have enforcement authority? What happens if the Federal, State, and/or local government do not want their activities coordinated?

Answer: No, the legislation does not specifically require concurrence of member jurisdictions before Commission actions may take effect. Such concurrence could be required, however, by internal Commission bylaws. Since coordinated activities implies mutuality, if a jurisdiction did not want its activities coordinated, it would not be required to do so.

Question. On the bottom of page 6, what do you mean by a "detailed plan to administer"?

Answer: We assume that any such plan would indicate what kinds of interpretive and commemorative activities could be undertaken and which entities --public and private--would be appropriate to do them. A timetable would probably be included.

Question. On page 7, we are providing an option regarding interest or non-interest loans. How will the Commission decide which loans are to be interest-bearing?

Answer: We have no information on which to base an answer to this question.

Question. What happens to the staff upon termination of the Commission? Do Federal personnel regulations apply? What happens to the Institute upon termination of the Commission?

Answer: The staff would be terminated, although their service with the Commission would count if they wished to use it in qualifying for other Federal employment. Regulations providing special benefits due to the abolition of positions would not apply to Commission staff since they may not be offered employment by the Commission for a term extending beyond its expiration date. The Institute would cease to function as a part of the Commission.

Question. Would you explain what section 104, paragraph(g) means?

Answer: It means the Commission may use its funds as a match to obtain matching grants.

Question. In paragraph (h) of the same section, what do you mean by "such property"?

Answer: Personal property, including vehicles and office supplies.

Question. Is $1 million supposed to cover all of the Commission's activities for 4 years? Based on your experience with other commissions of this type, is $250,000 per year sufficient to carry out the purposes of this legislation?

Answer: We read the language of the bill as authorizing $1 million to cover all activities of the Commission. The draft National Park Service Study Report, dated May 1989, identified a Commission as an alternative to National Historic Trail designation, and indicated that the Commission would be similar to the recently created Southwestern Pennsylvania Heritage Preservation Commission. That Commission was established by Title I of Public Law 100-698, to expire in 10 years. The law authorized the appropriation of $3 million to the Commission, and provided that funds may be made available only to the extent they are matched by equivalent funds from non-Federal sources. That formula would provide $300,000 per year in Federal funds. Other Commissions are authorized at $350,000 per year (Illinois and Michigan Canal, Delaware and Lehigh Canal National Heritage Corridors) and $250,000 per year (Blackstone River Valley National Heritage Corridor). We defer to the sponsors of the bill as to whether $250,000 per year is sufficient for the De Soto Commission.

Question. What types of activities are going to be funded by loans rather than grants?

Answer: We have no information on which to base an answer to this question.

Question. Who is going to review the loan and grant applications? Is the Commission going to employ legal counsel?

Answer: Section 102(c) requires detailed cost estimates for projects proposed to be funded from grants or loans to be submitted to the appropriate Congressional committees. In addition, loans are to be made subject to terms and conditions approved by the Secretary under section 102(a). The Commission could employ legal counsel of its own or use counsel of another Federal agency on a reimbursable basis.

Question. What is there in this bill that can be accomplished through existing personnel and authorities?

Answer: In response to an earlier question, we indicated that the States have the ability to accomplish the purposes of the bill. In addition, under the National Historic Preservation Act and the National Trails System Act, the National Park Service may provide technical assistance and advice with respect to the interpretation of historic sites and trails.

S.830

Question. If this legislation is, as you have stated, "premature," notwithstanding the authorization of monies, will the legislation still be required upon approval of the Cultural Heritage and Land Management Plan?

Answer: If clear, unambiguous authority to make grants of funds for the purposes set forth in S.830 is desired, the answer is "Yes". Public Law 99-647 broadly authorized the Commission to assist and encourage other entities in carrying out preservation associated activities, but there is no specific language that authorizes the Commission to make grants for that purpose.

APPENDIX II

Additional Material Submitted for the Record

Statement of

George W. S. Abbey
Acting Associate Administrator
Office of Space Flight

National Aeronautics and Space Administration

before the

Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and National Resources
United States Senate

Mr. Chairman and members of the Subcommittee:

I am pleased to submit this statement regarding the ammonium perchlorate (AP) situation and NASA's experience with this issue over the past year. NASA is keenly interested in this matter since AP is the key ingredient of solid rocket fuel. The Space Shuttle Solid Rocket Motor (SRM) is the largest single user of AP with over 1,700,000 pounds required per flight set. Furthermore, many expendable vehicles also use AP for solid propellants. These include the TItan III, Titan IV, Delta II, and Scout booster systems, used for both government and commercial launches. AP shortages directly impact these vital government and commercial programs.

NASA's requirements are a significant portion of the North American demand --- about 38 per cent, for example, in calendar year 1989. Accordingly, the explosion May 4, 1988, at the Pacific Engineering and Production Company of Nevada (PEPCON), caused great concern at NASA since the result was a reduction by half of this country's ability to produce AP. At the time of the accident PEPCON's annual production capacity was 20 million pounds per year (MPY) with a maximum production capacity of 40 MPY. Kerr-McGee Chemical Company was producing 32 MPY with a capacity for production of 40 MPY. The effect of the accident on world wide capacity of AP was to go from a 30 per cent excess to a 35 per cent deficit. The U.S. capacity for NASA and the DOD went from 35 per cent excess to 25 per cent deficit.

Federal action was essential to restore the lost capacity as rapidly as possible. Toward that objective, NASA and DOD embarked on a plan to assure the rebuilding of a 30 MPY facility at a remote site. Government involvement is being provided in the form of a commitment to place orders for Solid Rocket Motors with the prime contractor, which will require them to purchase sufficient quantities of ammonium perchlorate to allow for recovery of capital investment over a period of seven years.

As a reaction to the PEPCON disaster, community sentiment in Henderson, Nev., is disposed to relocate Kerr-McGee's ammonium perchlorate plant. Kerr-McGee has stated that its proposed plant could be completed by September 1991 and producing in support of NASA/DOD requirements. The first step in that process, if a Federal site is to be selected, is selecting a suitable site that provides access to power, water, and transportation to minimize

construction and operation costs and that meets all appropriate conditions for such a facility. NASA is looking to Kerr-McGee to select such a site at the earliest possible date. It is essential that Kerr-McGee's construction schedule be accelerated as much as possible. If it becomes necessary for any reason to close the Henderson plant, we will again be faced with a single producer and government allocations. In this connection, Western Electro Chemical Company (WECCO), a subsidiary of PEPCON, is establishing a production facility in Utah. Private financing has been procured to fund the WECCO facility, which is scheduled to begin producing AP in July.

A review of the present availability of AP is useful in appreciating NASA's concern for supplies. After the May 1989 allocation, 4 million pounds of AP will be available at Kerr-McGee. Kerr-McGee production from June to December 1989 is projected at 22 million pounds, making a total of 26 million pounds available during calendar year 1989. Meanwhile the projected government demand through 1989 is for between 34 and 40 million pounds. This constitutes a shortfall of between 8 and 14 million pounds of AP for this year. Estimates are WECCO 1989 production could be between 5 and 9 million pounds. During 1990, the projected shortfall of AP is estimated at 28 million pounds without WECCO production.

In summary, NASA feels there is potential for major program impacts without these production facilities. There is a projected gap between national needs and available supplies in 1989. Only the size of the deficiency is in question. There may well be significant reductions or even curtailment of vital national programs if AP production is not promptly restored.

A number of issues must be addressed in finding an alternative site for the Kerr-McGee facility. NASA is concerned that these decisions be made in recognition of the urgent national need for AP. We understand, however, that there are major problems with the site under consideration, and we defer to the Departments of Defense and the Interior to articulate these concerns and to make a recommendation on this bill.

Mr. Chairman, this concludes my statement. I shall be pleased to provide whatever further cooperation the Subcommittee may require.

STATEMENT BY

DANIEL S. RAK

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE

FOR ACQUISITION MANAGEMENT AND POLICY

FOR THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

JUNE 8, 1989

MR. CHAIRMAN

AT THE REQUEST OF THE SUBCOMMITTEE, I AM SUBMITTING FOR THE RECORD A BRIEF STATEMENT WHICH IS INTENDED TO SUMMARIZE THE DOD INVOLVEMENT IN THE AMMONIUM PERCHLORATE (AP) ISSUE AND HOW THAT RELATES TO THE LEGISLATION YOU ARE NOW CONSIDERING. BY WAY OF BACKGROUND, I BELIEVE IT IS IMPORTANT FOR THE SUBCOMMITTEE TO UNDERSTAND THE CIRCUMSTANCES THAT HAVE CAUSED KERR-MCGEE TO SEEK AN ALTERNATE LOCATION FOR SOME OF THEIR PLANT OPERATIONS.

KERR-MCGEE AND ANOTHER COMPANY IN HENDERSON, NV, PACIFIC ENGINEERING AND PRODUCTION COMPANY OF NEVADA (PEPCON), HAVE FOR THE LAST 25 YEARS BEEN THE ONLY PRODUCERS OF AP IN THE U.S. THIS PRODUCT IS AN ESSENTIAL INGREDIENT IN THE MANUFACTURE OF PROPELLANT FOR EVERY SOLID ROCKET MOTOR USED BY THE DOD AND NASA. ON MAY 4, 1988, A FIRE AND EXPLOSION TOTALLY DESTROYED THE PEPCON FACILITY, WHICH ACCOUNTED FOR APPROXIMATELY ONE HALF OF THE U.S. CAPACITY. ON THAT AFTERNOON, U.S. CAPACITY FOR DOD AND NASA REQUIREMENTS WENT FROM A 35% EXCESS POSITION TO A 25% DEFICIT. SINCE THE U.S. IS A LARGE EXPORTER, THE WORLDWIDE CAPACITY WENT FROM A 30% EXCESS POSITION TO A 35% DEFICIT. IN MORE SPECIFIC NUMBERS, WE PROJECT WORLDWIDE DEMAND AGAINST U.S. CAPACITY TO EXCEED 60 MILLION POUNDS PER YEAR WHILE, KERR-MCGEE, THE ONLY REMAINING U.S. SUPPLIER, CAN PRESENTLY PRODUCE ONLY APPROXIMATELY 40 MILLION POUNDS PER YEAR.

IT BECAME CLEAR ON THE MORNING OF MAY 5, 1988 THAT EXTRAORDINARY EFFORTS WOULD BE REQUIRED TO AVOID MAJOR IMPACTS TO SOME OF THE NATION'S MOST IMPORTANT PROGRAMS. ACTIONS WERE SET IN

MOTION TO IDENTIFY THE MAGNITUDE OF THE PROBLEM AND AVAILABLE ALTERNATIVES. WITHIN THE NEXT TWO DAYS, THE AIR FORCE WAS DESIGNATED AS THE LEAD SERVICE FOR DOD, A DOD/NASA INTERAGENCY MANAGEMENT GROUP WAS ESTABLISHED, AND I WAS DESIGNATED TO LEAD THIS GROUP FOR DOD. THE CHARTER WAS QUITE SIMPLE: MANAGE AVAILABLE SUPPLIES OF AP TO MINIMIZE PROGRAM IMPACTS AND RESTORE THE U.S. INDUSTRIAL BASE.

I WON'T DWELL ON THE MECHANICS OF MANAGING THE AVAILABLE SUPPLIES, BUT WE CONSIDER THESE EFFORTS HAVE BEEN VERY SUCCESSFUL CONSIDERING THE CIRCUMSTANCES. WE ARE USING THE DEFENSE PRODUCTION ACT TO ALLOCATE THE ENTIRE OUTPUT OF MATERIAL FROM KERR-MCGEE TO END USERS. WITH SOME SMALL EXCEPTIONS, ALL DOD/NASA PROGRAMS HAVE HAD ADEQUATE SUPPLIES AND WILL HAVE AT LEAST THROUGH JUNE OF THIS YEAR. IN ADDITION, WE HAVE SUPPLIED THE U.S. COMMERCIAL SPACE INDUSTRY AND HIGH PRIORITY DEFENSE PROGRAMS OF ALLIED NATIONS. AS WE HAD PROJECTED, THE AP SITUATION IS NOW REACHING A POINT WHERE KERR-MCGEE CAN NO LONGER MEET DEMANDS.

STARTING ON MAY 5, 1988, OUR FIRST AND HIGHEST PRIORITY WAS TO SET IN MOTION THOSE ACTIONS WHICH WOULD INCREASE CAPACITY. IN SHORT ORDER, WE DID A MARKET SEARCH OF U.S. INDUSTRY AND CONCLUDED THAT ONLY PEPCON AND KERR-MCGEE WERE REASONABLY CAPABLE OF PROVIDING THE INDUSTRIAL BASE WITHIN THE 89/90 TIMEFRAME. WITHIN TWO WEEKS OF THE ACCIDENT, MAY 16TH AND 18TH, PEPCON AND KERR-MCGEE PRESENTED THEIR PROPOSALS TO THE AIR FORCE AND NASA FOR RESTORING AP PRODUCTION CAPACITY.

THE GOVERNMENT ELECTED, AS PART OF THE SOLUTION, TO PROVIDE INVESTMENT INCENTIVES TO PEPCON (WHICH SUBSEQUENTLY BECAME WESTERN ELECTROCHEMICAL CO., WECCO) TO REBUILD THEIR FACILITY AT A SITE REMOTE FROM THEIR PRIOR LOCATION IN HENDERSON. IN SPITE OF THE OBVIOUS FINANCIAL DIFFICULTIES CAUSED BY THE EXPLOSION, PEPCON WAS SELECTED SINCE THEY OFFERED THE ONLY REASONABLE CHANCE OF HAVING ADDITIONAL CAPACITY BY THE MIDDLE OF 1989, THE TIME MAJOR PROGRAM IMPACTS WERE PROJECTED TO OCCUR. THE PEPCON CONSTRUCTION IS WELL UNDERWAY AND INITIAL PRODUCTION IS EXPECTED TO MEET OUR TARGET OF JULY, 1989. WHILE SOME PROGRAM IMPACTS WILL OCCUR DURING THE REMAINDER OF 1989, THEY SHOULD BE FAR SHORT OF THE CATASTROPHIC IMPACTS THAT WOULD OCCUR WITHOUT THE PEPCON FACILITY.

THE GOVERNMENT ACTION, IN THE CASE OF KERR-MCGEE, WAS FAR MORE COMPLICATED. HERE WE HAD A PERFECTLY ADEQUATE FACILITY OPERATING AT FULL CAPACITY, SUPPLYING VIRTUALLY THE ENTIRE NEED OF DOD, NASA AND OTHER CRITICAL USERS DURING THIS INTERIM PERIOD. THE EASY ANSWER WOULD HAVE BEEN TO REBUILD PEPCON AND HOPE KERR-MCGEE COULD CONTINUE TO OPERATE AT THEIR PRESENT LOCATION. BUT KERR-MCGEE CONCLUDED THAT LONG TERM, FUTURE OPERATION OF THE FACILITY AT ITS PRESENT LOCATION WAS IN DOUBT. WHILE ALL REASONABLE MEASURES TO ENSURE SAFE OPERATION HAVE BEEN TAKEN, THERE REMAINS CONSIDERABLE ANXIETY WITHIN THE COMMUNITY. POPULATED DEVELOPMENTS CONTINUE TO ENCIRCLE THE KERR-MCGEE FACILITY. THE GOVERNMENT CONCLUDED THAT IT SIMPLY COULD NOT HAVE SUCH A CRITICAL FACILITY AT RISK. CONSEQUENTLY, THE GOVERNMENT AND KERR-MCGEE REACHED AN AGREEMENT WHEREBY CERTAIN

LONG TERM INVESTMENT INCENTIVES WOULD BE PROVIDED TO KERR-MCGEE FOR RELOCATING MAJOR PORTIONS OF THEIR FACILITY TO A REMOTE SITE. ONE OF THESE SITES, APEX, IS OF COURSE THE REASON FOR THIS STATEMENT.

I HOPE THIS SHORT SUMMARY HELPS THE SUBCOMMITTEE UNDERSTAND THE INTEREST WE HAVE IN THE KERR-MCGEE FACILITY. AS A FINAL POINT OF THE SUMMARY, I WOULD LIKE TO REITERATE THE IMPORTANCE OF THE PRODUCT AND THE FACILITY TO THE U.S. WE HAVE OVER 80 PROGRAMS THAT DEPEND ON AP: PROGRAMS SUCH AS THE PEACEKEEPER, MINUTEMAN, TRIDENT, AND SMALL ICBM STRATEGIC MISSILES; TITAN IV AND DELTA II SPACE BOOSTERS; AMRAAM, HARM, SIDEWINDER AND MLRS TACTICAL MISSILES. THERE IS NO FORESEEABLE SUBSTITUTE FOR THIS MATERIAL. WE CANNOT AFFORD, FOR ANY REASON, TO LOSE THE KERR-MCGEE FACILITY.

MR. CHAIRMAN, THE AIR FORCE, ON BEHALF OF DOD, HAS REVIEWED THE LEGISLATION AND HAS NO OBJECTION TO THE TRANSFER OF THE KERR-MCGEE TRACT AS PROPOSED. THE AIR FORCE CONTINUES TO HAVE SOME MAJOR CONCERNS WITH RESPECT TO DEVELOPMENT OF OTHER TRACTS IN THE APEX SITE. THE SOUTHERN-MOST PORTIONS OF APEX LIE ALONG THE EXTENDED CENTERLINE AND LESS THAN FOUR MILES FROM THE NORTH-SOUTH RUNWAY OF NELLIS AFB. IN OUR VIEW, NELLIS IS A NATIONAL ASSET THAT CANNOT BE DUPLICATED ELSEWHERE IN THE U.S. IT IS UNIQUE FOR AIR FORCE TRAINING IN THAT A COMBAT TRAINING SORTIE CAN BE CONDUCTED FROM ENGINE START TO ORDNANCE-ON-TARGET WITHOUT INTERRUPTION BY PEACETIME RESTRICTIONS. OVER 4,000,000 POUNDS OF LIVE ORDNANCE EACH YEAR DEPART TO THE NORTH ON FLIGHTS DIRECTLY

OVER THE APEX SITE. SINCE POPULATED AREAS SURROUND OTHER PORTIONS OF THE BASE, ONLY THE APEX ROUTE REMAINS FULLY SUITABLE FOR EXTENSIVE SORTIES WITH LIVE ORDNANCE. SINCE THE KERR-MCGEE TRACT LIES IN THE NORTHERN QUADRANT SOME 12 MILES AWAY AND NORTH OF THE CENTERLINE, THAT SINGLE PLANT OFFERS LITTLE BASIS FOR CONCERN. HOWEVER, EXTENSIVE DEVELOPMENT IN THE SOUTHERN QUADRANT COULD LEAD TO FUTURE DEMANDS FOR OVERFLIGHT RESTRICTIONS THAT COULD SERIOUSLY IMPAIR THE TRAINING MISSION OF NELLIS.

WITH TWO CHANGES TO S.624, THE AIR FORCE WOULD ALSO NOT OBJECT TO THE PROPOSED LEGISLATION FOR THE REMAINING PORTIONS OF THE APEX SITE. THE FIRST CHANGE WOULD BE TO OBTAIN THE CONCURRENCE OF THE SECRETARY OF THE AIR FORCE PRIOR TO TRANSFER OF EACH ADDITIONAL INDIVIDUAL TRACT. THE AIR FORCE COULD THEN REVIEW THE SPECIFICS OF THE PROPOSED DEVELOPMENT FOR ANY ADVERSE IMPACT ON NELLIS OPERATIONS. THIS CHANGE WOULD RECOGNIZE THE IMPORTANCE OF UNRESTRICTED ACCESS TO NELLIS, WHILE NOT UNREASONABLY IMPEDING CLARK COUNTY'S ABILITY TO DEVELOP THE AREA.

THE SECOND CHANGE IS TO RETAIN FOR THE GOVERNMENT, AN AVIGATION EASEMENT OVER THE ENTIRE APEX SITE. SECTION 104 WOULD STATUTORILY RESERVE CERTAIN RIGHT-OF-WAY CORRIDORS ACROSS THE APEX SITE, BUT DOES NOT INCLUDE AN AVIGATION CORRIDOR. WHILE THE LEGISLATION DOES NOT PRECLUDE RETENTION OF OTHER EASEMENTS NOT ENUMERATED IN THE BILL, THE FACT THAT AN AVIGATION EASEMENT DID NOT MERIT INCLUSION AS AN ENUMERATED EASEMENT CASTS DOUBT ON THE IMPORTANCE CONGRESS ATTACHES TO THIS ISSUE. SHOULD THE CONGRESS

ELECT NOT TO INCLUDE SUCH EASEMENT IN THE BILL, IT IS OUR UNDERSTANDING THAT THE AIR FORCE WILL BE REQUIRED TO FULLY COMPLY WITH THE FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 OR OTHER APPLICABLE LAW, INCLUDING MAKING APPLICATIONS FOR SUCH AN EASEMENT TO A LOCAL BLM OFFICE AND PROVIDING SUCH JUSTIFICATIONS AS WOULD NORMALLY BE REQUIRED FROM ANY ENTITY SEEKING AN EASEMENT. IN THAT PROCESS, VALUES OTHER THAN PROTECTION OF NELLIS AFB'S OPERATIONS COULD PREVAIL, AND THE NEEDED EASEMENT MIGHT BE DENIED OR RESTRICTED.

MR. CHAIRMAN, THE DOD CLEARLY HAS AN INTEREST IN SEEING THAT KERR-MCGEE HAS A SAFE AND UNRESTRICTED SITE TO CONTINUE THEIR AP PRODUCTION OPERATIONS. WE UNDERSTAND THE DESIRE OF CLARK COUNTY TO DEVELOP A HEAVY INDUSTRIAL ZONE OUTSIDE HENDERSON AND DO NOT WISH TO IMPEDE SUCH DEVELOPMENT. HOWEVER, ENCROACHMENT OF POPULATED AREAS AROUND AIR FORCE FACILITIES HAS BEEN A SEVERE PROBLEM FOR MANY YEARS. WE ARE CONVINCED THAT NEITHER THE CONGRESS NOR CLARK COUNTY INTEND THESE ACTIONS TO IMPAIR THE MISSION OF NELLIS AFB. BUT, POPULATED ENCROACHMENTS ARE SELDOM INTENDED TO HAVE THAT RESULT--THEY SEEM TO JUST EVOLVE INTO THAT RESULT. WITH THE CHANGES WE ARE PROPOSING, WE BELIEVE BOTH PARTIES CAN ACHIEVE THEIR OBJECTIVES AND THAT NELLIS AND CLARK COUNTY CAN CONTINUE TO ENJOY THEIR NEIGHBORLY RELATIONSHIP FOR MANY MORE DECADES.

THANK YOU, MR. CHAIRMAN, FOR THE OPPORTUNITY TO PRESENT THIS STATEMENT ON BEHALF OF THE DOD.

Testimony of
Dan F. Morse
before the
Senate Subcommittee on Public Lands, National Parks and Forests
Concerning S. 555
to Establish in the Department of the Interior the De Soto Expedition Trail Commission, and for Other Purposes

June 8, 1989

Passage of the De Soto Trail Commission Act of 1989 is extremely important to Arkansas. The De Soto Expedition explored one-half to two-thirds of the present state of Arkansas during 1541-1543. This exploration represented the initial direct contact between European and Native American cultures in our state. Indirect contact continued between Arkansas and the Spanish southwest and the remainder of La Florida (as the Spanish called all of what is now the southeastern United States) into the 17th century when indirect contact with the French was initiated via the Illini (specifically the Michigamea) until direct contact with the French began with Father Marquette, Jolliet, La Salle and others before A.D. 1700. The 132 years from 1541 until 1673 represents a period of extraordinary adjustment by Native American to new diseases, new artifacts and new foods. It is a period of declining population in Arkansas (circa 75,000 to 15,000) and of the survival of Native Americans in Arkansas from the collapse of some of the most complex chiefdoms recorded by the De Soto chronicles for all of La Florida. It is also a period initiated by a most spectacular and extraordinary feat of exploration which was made possible only because of Native American trails, guides, and food. Commemorating and noting such a significant world historic period is indeed a highly commendable goal for the United States Senate.

The exploration of Arkansas resulted in the earliest European recording of Quapaw, Tunica and Caddo cultures and of the important geographical features of Arkansas such as major rivers (White, Black, Arkansas, St. Francis, Red), the Ozarks and the Ouachita Mountains, and the salt works of Liberty Valley, Russellville and Arkadelphia. The protohistoric Native American Arkansas population is represented by the attached computer map of 354 locations (Figure 1). The expedition visited almost all of the societies represented by these towns, village and farmstead locations.

In particular, the fortified town of Casqui has been identified as located within the present boundary of Parkin, Arkansas. This large, well preserved site is now owned by the State of Arkansas and will be administered as a recreational park and archeological museum in the near future. The first European baptisms in Arkansas took place here and the first cross erected in Arkansas was at the Parkin site in 1541. Nearby is the famous town of Pacaha, most powerful in La Florida according to the contemporary accounts. At the location of Pacaha, adjacent to the Wapanocca National Wildlife Refuge, are the remains of four fortified towns which may have been the 16th and early 17th centuries home sites of the Quapaw who lived in four towns 100 miles further south, in the vicinity of Arkansas Post National Monument and the White River National Wildlife Refuge in the late 17th century. This hypothesis must be tested and refined further.

Commemoration of the De Soto trail needs to be accomplished by informing the public of the importance of this exploration of protohistoric Arkansas. Designation of a highway route (see Figure 2 for a preliminary route in Arkansas) is extremely important not only for those who wish to drive it but also for local communities and historical societies to help promote it so those who live there can better appreciate their cultural and geographical heritage. Actual research, both archival and archeological, needs to be sponsored to test existing ideas of the route and interaction. Publication, particularly popularized, needs to be done for the public and school-aged children. Exhibits which are accurate and informative need to be developed.

I have submitted to the Chair of this Sub-Committee a paper which provides much more detail than this brief communication on the route and impact of the De Soto expedition in Arkansas. I wish to thank the Senate Sub-Committee on Public Lands, National Parks and Forests for allowing me to provide this testimony. I think that this legislation is very important and support it fully. Thank you.

Dan F. Morse
Archeologist
Arkansas Archeological Survey

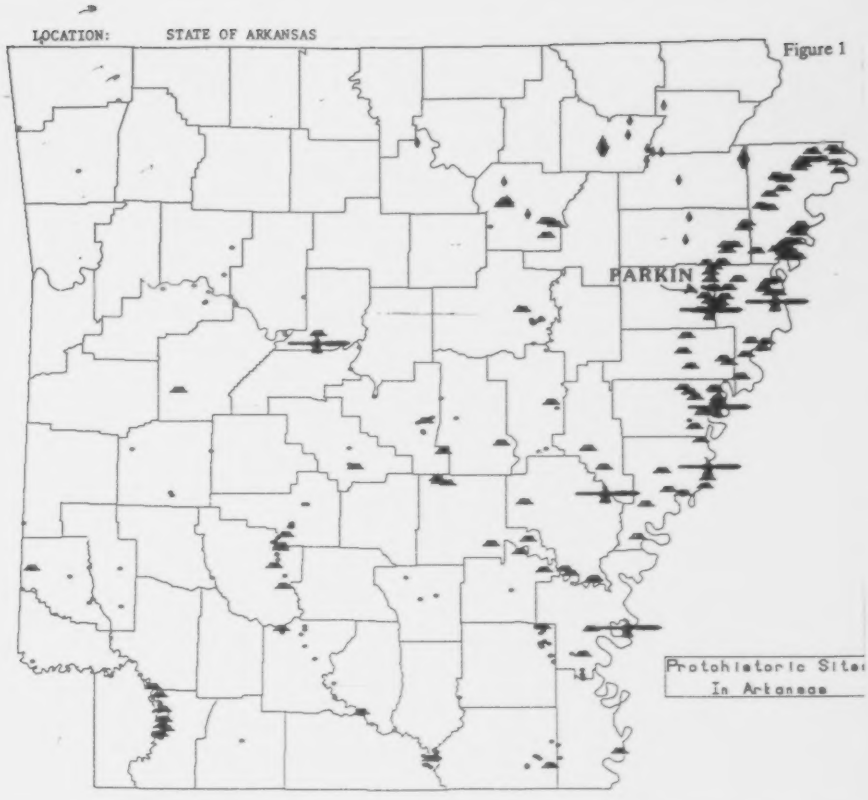

Figure 1

SCALE: 1 : 2224675

4064000.00

WINDOW: 340150.00 821400.00

3633000.00

arkbase (PERMANENT)

north

LEGEND:

Pyramid-shaped icons represent town sites over 1 acre

Round icons represent hamlet sites under 1 acre

Small vertical arrowheads represent small hunting sites

Large vertical arrowheads represent large hunting sites

Halberd-shaped icons represent sites with Spanish artifacts

Source: AMASDA database

Produced by: Arkansas Archeological Survey DATE: 3/1/89

Software: GRASS

Figure 2

White
(Batesville)
St Francis
Casqui
(Parkin)
Pacaha
(Bradley)
Memphis
Tula
(Little Rock)
Autiamque
Aminoya
Anilco
Guachoya
Saline River
Ouachita River
Red River
Sabine River
Cypress Creek
DE SOTO ROUTE IN ARKANSAS
AS KNOWN IN 1989

Statement for the Record

Submitted by John M. Turner
Director, Government Affairs
Georgia-Pacific Corporation
1875 Eye Street, N.W., Suite 775
Washington, D.C. 20006

Re: S. 624, Sale of Certain Federal Lands to Clark County, NV.

Public Hearing Before the Subcommittee Public Lands, National Parks and Forests, Senate Committee on Energy and National Resources, June 8, 1989.

Mr. Chairman and members of the Committee, I am John M. Turner, an employee of the Georgia-Pacific Corporation. Georgia-Pacific (G-P) is a national manufacturer and distributor of building materials and paper products with operations located in Nevada and 47 other states.

This statement is presented in support of S.624 with recommendations that the bill be amended to conform with amendments adopted by the House Committee on Interior and Insular Affairs on H.R. 1485, a companion bill to S. 624.

Georgia-Pacific operates a gypsum wallboard manufacturing facility on 280 acres of the 17,000-acre parcel that would be sold to Clark County, Nevada, under this bill for an industrial park. The company facility was constructed in 1987 and began operations in early 1988. The facility was located on mining claims granted by the Bureau of Land Management (BLM), and has a valid Plan of Operation (N56-86-001P) approved on December 1, 1986. The facility employs 75 people and provides indirect employment to others engaged in the transportation of raw gypsum ore to the plant and finished product from the plant. The total investment in this operation approaches $20,000,000.

Georgia-Pacific was preparing to take the mining claims to patent when the BLM withdrew the acreage from all forms of appropriation under the public land laws for a period of two years pending consideration of legislation by the Congress (Federal Register, November 2, 1988, Vol. 53, No. 212).

Georgia-Pacific contacted officials of Clark County to express interest in purchasing the land, should the county acquire it, as an alternative to the patent process. We received written assurances that the county will sell the land to Georgia-Pacific as soon as the 280 acres can be acquired from the BLM.

The company believes development of the area surrounding our facility is suitable for an industrial park and the company believes it would benefit from being located within an industrial complex. The benefits would include greater access to an

employment pool of qualified workers, increased availibility of service and maintenance contractors, and a stable operating environment for manufacturing.

S.624 as introduced, proposes that the Secretary of the Interior be required to undertake the appropriate environmental studies required under Federal law on the entire 17,000 acres before any of the lands could be transferred to Clark County. Georgia-Pacific supports language that would allow a parcel-by-parcel transfer of the land with the appropriate environmental studies for each tract. Georgia-Pacific has already built its facility, roads, water lines, etc. and environmental assessments were prepared. The House amended bill, H.R. 1485, provides for a parcel-by-parcel transfer.

The House version provides a more expeditious process that would enable Georgia-Pacific to consider plans for a cogeneration facility on the 280-acre site that would provide substantial annual savings in energy costs as well as capacity for future growth.

Further, the House amended version contains a section allowing the cogeneration facility to be considered by the Secretary during the interim period between enactment of the law and the actual transfer of BLM land to Clark County. This activity would be subject to full environmental review, but would permit the initial planning and engineering work to proceed without delay. The cogeneration project would be a joint business arrangement between Georgia-Pacific and Bonneville Nevada Corporation (as operator) to provide process heat and electric power.

Although Georgia-Pacific may have been able to secure the 280-acre site under the federal mining laws regarding patent of claims for the standard fee, we have agreed to support this legislation that will enable the Federal government to receive the fair market appraised value for this land. The cost will be substantially higher to our company, but we believe certainty of fee ownership and the time savings available through this legislation is more beneficial to us. The legislation is beneficial to all parties---the Federal government, Clark County and Georgia-Pacific.

For the reasons outlined, Georgia-Pacific supports Clark County in its effort to create an industrial park for heavy industry and urges the approval of S. 624 with appropriate amendments to conform this bill to H.R. 1485 as adopted and reported by the House Interior and Insular Affairs Committee.

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